

Dated 19th September 1995

BETWEEN:

DEPARTMENT OF TRANSPORT (1)

AND

ISLE OF MAN STEAM PACKET COMPANY LIMITED (2)

AGREEMENT

COPY

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THIS AGREEMENT is made the 19th day of September
One thousand nine hundred and ninety five

BETWEEN:

- (1) DEPARTMENT OF TRANSPORT of Sea Terminal Buildings Douglas Isle of Man ("the Department") and
- (2) ISLE OF MAN STEAM PACKET COMPANY LIMITED a company duly incorporated in the Isle of Man under Company Reference Number 73 and whose registered office is situate at Imperial Buildings Douglas Isle of Man ("the Company")

NOW IT IS AGREED as follows:

1. DEFINITIONS

- 1.1 In this Agreement the following words and expressions have the following meanings unless inconsistent with the context:

"Accompanied Vehicle" means a road vehicle whether or not designed to carry passengers with their personal effects and which vehicle is accompanied by one or more persons of whom one is the driver but such persons shall not include a driver with or without crew of a commercial vehicle being then used

"Accounting Year"

for commercial purposes means the period from 1st day of April in each year to the 31st day of March of the next year or such other period as the Department may in its discretion from time to time determine as being that in which the accounts of the Department either generally or relating to the Department's Linkbridge shall be made up PROVIDED THAT the first Accounting Year shall be the period commencing on the commencement of the Initial Period up to and including the next following 31st day of March and the last Accounting Year shall be the period from the expiration of the then

immediately preceding
Accounting Year up to
and including the date
of termination of this
Agreement whether by
effluxion of time or
otherwise

"Average load factor" means

(a) by reference to the
average load factor
relevant to
Accompanied Vehicles
the total lane
meterage (that is
the measurement in
metres) of the
length of vehicle
lane actually used
by Accompanied
Vehicles on all
Conventional
Vessels and/or Fast
Craft (as the
context requires)
in a week expressed
as a percentage of
the number of lane
metres available on

Conventional Vessel
sailings and/or
Fast Craft sailings
(as the context
requires) in that
week or

(b) by reference to the
average load factor
relevant to

passengers the
total number of
passengers carried
on all

Conventional
Vessels and/or Fast
Craft (as the
context requires)
in a week expressed
as a percentage of
the maximum

passenger capacity
of Conventional

Vessel sailings
and/or Fast Craft
sailings (as the
context requires)

in that week

(c) and if the context

refers to a
specified
percentage Average
load factor without
specific reference
to Accompanied
Vehicles or
passengers then
such reference
shall mean that
both Average load
factors calculated
in accordance with
(a) and (b) shall
represent the
specified
percentage

"Appropriate Treasury
Rate"

means such rate of
interest certified by
Treasury as equivalent
to the average rate of
interest charged by
Treasury to Government
Departments on advances
for capital projects
during the three year
period immediately
preceding the then

	Review Date
"Bank Holiday"	means any holiday which is a public holiday in the Isle of Man
"Belfast Holiday Period"	means the period of 17 days commencing at 1200 hours on the Friday immediately preceding or immediately following (whichever shall be closest thereto) or on 12th day of July in each year or on such other date (if any) as the Company and the Department shall from time to time agree then more appropriately reflects the commencement of the main summer holiday period for the City of Belfast
"Capital Monies"	means the amount certified by the Department's External Auditors as being the total Capital Monies

paid or payable by the
Department under in
respect of or in
connection with all
contracts matters and
items more particularly
referred to in the
Fourth Schedule hereto

"Chief Harbour
Master"

means the Director of
Harbours and/or the
Chief Harbour Master
and/or such other
person or persons who
for the time being
exercise(s) the
functions (statutory or
otherwise) and
discharge(s) the duties
(statutory or
otherwise) or any of
them at any time
previously conferred
upon or discharged by
or hereafter to be
conferred upon or
discharged by the Chief
Harbour Master or the
Director of Harbours

"Christmas Period" means the period from 22nd December to the following 4th January (both dates inclusive) in each year

"the Company" means the said Isle of Man Steam Packet Company Limited

"Conventional Vessel" means:-
(a) in respect of the services to be provided by the Company in accordance with clause 3.2 a ship of conventional design with a minimum operational speed of 14 knots but appropriate for use and capable of maintaining journey times commensurate with the scheduled times for the vessel Peveril for the

calendar year 1994

namely 4½ hours

from Heysham to

Douglas and

(b) in respect of the services to be provided by the Company in accordance with clauses 3.3 to 3.8 (inclusive) and 3.10 a ship of conventional design with a minimum operational speed of 18 knots but appropriate for use and capable of maintaining journey times commensurate with the scheduled times advertised for the vessel King Orry and the Company's published timetables for the calendar year 1993

"day"

means where the context

so requires the 24 hour
period commencing 00.01
hours and ending on the
next following 24.00
hours

"the Department"

means the Department of
TRANSPORT or any other
Department of
Government Statutory
Board or other entity
for the time being
responsible for the
general management and
control of Douglas
Harbour or being the
owner of the
Department's Linkbridge
whichever shall be
appropriate and shall
include as the context
requires the officers
servants personnel and
agents of the
Department of
TRANSPORT and such
other Department
Statutory Board or
entity as aforesaid

"Department's
Linkbridge"

means a Linkbridge (as
hereinafter defined)
for the time being
owned or in the
possession of the
Department and situate
on the North side of
King Edward VIII Pier
in Douglas Harbour

"Department of
Tourism"

means the Department of
Tourism and Leisure or
other such Department
of Government Statutory
Board or entity for
the time being
responsible for overall
encouragement of
visitors to the Isle of
Man

"Dublin Holiday
Period"

means the 17 day period
commencing at 1200
hours on the Friday
immediately preceding
the first Monday in the
month of August in each
year or on such other
day or date as
the Company and the

Department shall from
time to time agree then
more appropriately
reflects the
commencement of the
main summer holiday
period for the City of
Dublin

"Easter period"

means the period from
the Thursday before Good
Friday to the
Thursday immediately
following Easter Monday
(all days inclusive) in
each year

"Fast Craft"

means a High Speed Craft
as defined in the
International Code of
Safety for High Speed
Craft for the time
being having force or
other appropriate
Code for the time
being having
force and which is
similarly
recognised and
(a) in respect of the

services to be provided by the Company in accordance with clauses 3.3 to 3.8 (inclusive) and 3.10 with a minimum operational speed of 30 knots and appropriate for the uses as

contemplated by such clauses and

(b) in respect of the services to be provided by the Company in accordance with clause 3.2 with a minimum operational speed of 14 knots and appropriate for the uses as contemplated by such clause

"Fixed Charge"

means

(a) in respect of the three year period

(subject to sooner determination as hereinafter provided) commencing on the date of commencement of the Initial Period such yearly sum (and proportionately for any part of a year) calculated in accordance with the provisions of Part I of the Fifth Schedule and

(b) in respect of each three year period (or if neither the Department nor the Company shall exercise the option to renew in accordance with the provisions of clause 12 the last year of the Initial Period) (subject

respectively to
sooner
determination as
hereinafter
provided)
commencing on the
appropriate Review
Date such yearly
sum (and
proportionately for
any part of a year)
calculated in
accordance with the
provisions of Part
II of the Fifth
Schedule

"Fluctuating Charges" means in respect of
each Accounting Year
the cost to the
Department of the items
set out or referred to
in the Second Schedule
and shall be deemed to
include not only those
costs expenses and
outgoings which have
actually been paid or
incurred by the

Department during the Accounting Year in question but also such reasonable proportion of costs expenses and outgoings of a periodically recurring nature (whether recurring regularly or irregularly) whenever paid or incurred or to be paid or incurred (whether prior to the commencement of the Licensed Period or otherwise) including a sum or sums by way of reasonable provision for anticipated costs expenditure and outgoings as the Department may in its discretion allocate to the Accounting Year in question as being fair and reasonable in the circumstances

"Force Majeure"

means act of God strike

(not involving
employees of the
Company) lock-out (not
being relevant to
Industrial action as
hereinafter defined)
mechanical breakdown of
any of the Vessels
(other than
mechanical breakdown
resulting from or
caused by the default
or negligence of the
Company or any of its
officers servants or
agents) fire riot civil
commotion national
calamity order of
public Authority
(excluding the
Department save and
except that any Order
direction or other
thing given or made by
the Chief Harbour
Master or the Harbour
Master of Douglas
Harbour (or any person

or persons for the time
being performing
similar functions to
the Chief Harbour
Master or the Harbour
Master of Douglas) or
any relevant Order
direction bye-law rule
regulation or other
thing made issued or
given or made by the
Department under or by
virtue of any Act
relevant to security or
prevention or detection
of terrorism or
criminal activities
whether applicable
generally to ports
and/or harbours in the
Isle of Man or
specifically (inter
alia) to Douglas
Harbour or the
territorial waters of
the Isle of Man shall
be respectively deemed
an order of a public

Authority for the
purposes of this
definition) enemy
action steps taken to
repel the same or any
other cause similarly
beyond the control of
the Company or the
Department as
appropriate
means plant machinery
equipment apparatus
containers trailers
vehicles (other than
Accompanied Vehicles)
but otherwise of every
description propulsion
and dimension and their
respective contents
cargo and other things
capable of carriage by
sea PROVIDED THAT
nothing in this
definition shall
obligate the Company to
afford carriage by sea
to any plant machinery
equipment apparatus

"Freight"

containers trailers or
vehicles which by
virtue of dimension
weight or other thing
are not capable of use
or carriage on public
roads in the Isle of
Man or the United
Kingdom without the
specific consent of any
appropriate authority
but if the provisions
relevant to use or
carriage on public
roads in the Isle of
Man and the United
Kingdom shall differ
then any plant
machinery equipment
apparatus container
trailer or vehicle
which is capable of use
or carriage on either
Isle of Man or United
Kingdom public roads
without the specific
consent of any
appropriate authority

shall be deemed (unless
at the time of the
proposed carriage by
sea any such plant
machinery equipment
apparatus container
trailer or vehicle
could not by virtue of
its dimensions
restriction of
manoeuvrability or
otherwise be carried on
board any Vessel then
usually used by the
Company for the
carriage of "Freight")
to be "Freight" for the
purposes of this
definition but nothing
in this definition
shall restrict or be
deemed to restrict the
right of the Company at
its discretion to
afford carriage by sea
to any plant machinery
equipment apparatus

"Further Period"

container trailer or
vehicle
notwithstanding that
the same does not
comply with the terms
of this definition
means if either the
Department or the
Company shall exercise
the option on their
respective part
contained in clause 12
the period of 5 years
commencing from the
expiration of the
Initial Period

"Half Slot Time"

means a period of time
not exceeding two
hours and thirty
minutes in the
aggregate with a
specific starting and
finishing time which
comprises:-

- (a) a period of time
not exceeding two
hours during which
one of the Vessels

has the right to
berth at the
Department's
Linkbridge for the
purpose of loading
or unloading
passengers and/or
Passengers and
Accompanied
Vehicles and/or
Freight and
(b) a period of time
not exceeding in
the aggregate
thirty minutes
during which
period of time the
appropriate Vessel
undertakes and
completes all
appropriate
manoeuvres and
other things to
complete the
respective
berthing of such
Vessel at the
Department's

Linkbridge and the
removal of such
Vessel from the
Department's
Linkbridge and the
adjacent berth and
all approaches
thereto

"Harbour"

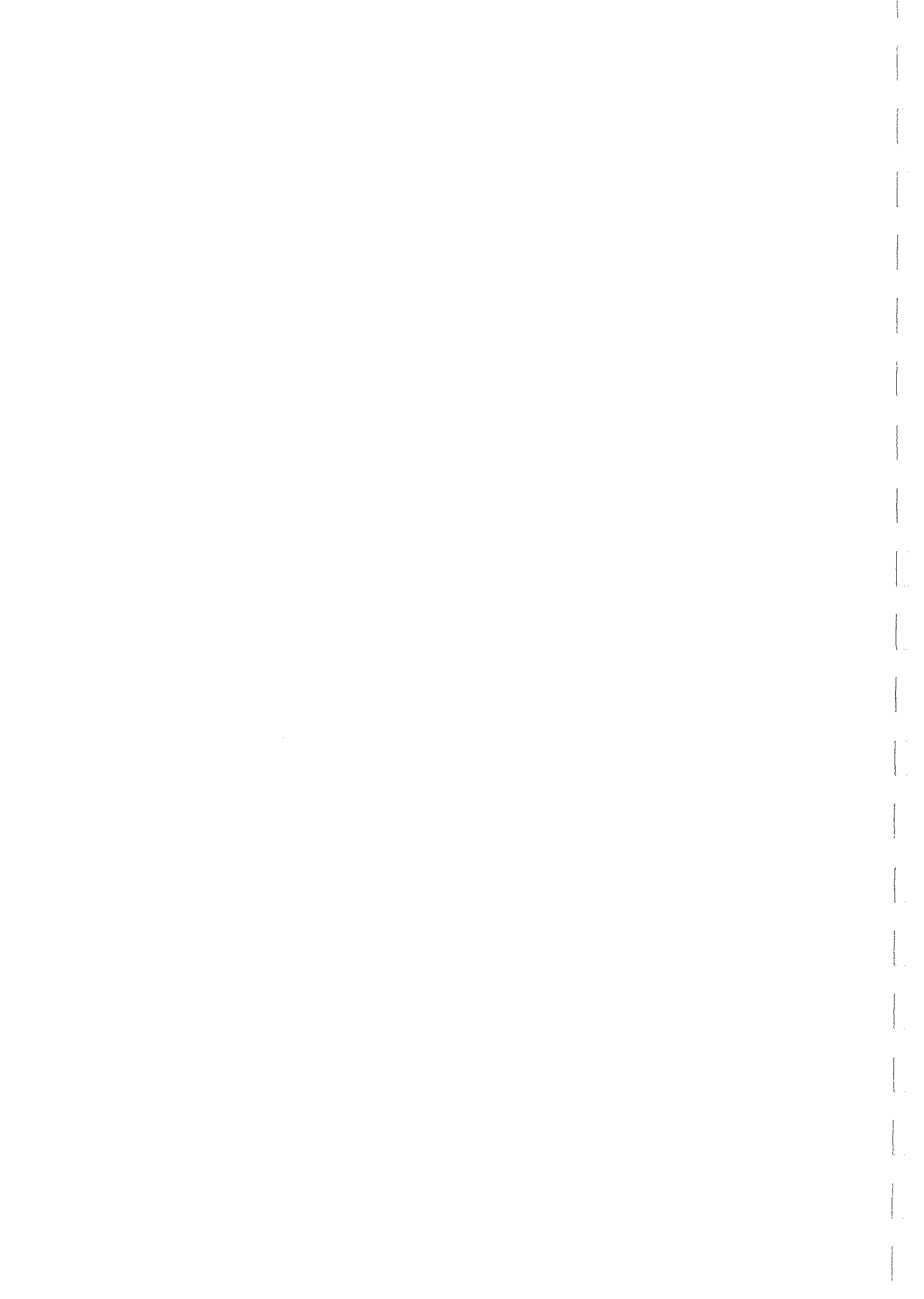
means a harbour vested
in the Department
within the meaning of
the Harbours (Isle of
Man) Act 1961 and as
such term is defined in
such Act

"Harbour Dues"

means Dues as defined
in the Harbours (Isle
of Man) Act 1961

"Harbour Master of
Douglas Harbour"

means the Director of
Harbours and/or the
Harbour Master of
Douglas Harbour and/or
such other person or
persons who for the
time being exercise(s)
the functions
(statutory or
otherwise) and



discharge(s) the
duties (statutory or
otherwise) or any of
them at any time
previously conferred
upon or discharged by
or hereafter to be
conferred upon or
discharged by the
Harbour Master of
Douglas Harbour or the
Director of Harbours
insofar as the same
are relevant to
Douglas Harbour
means cessation of
work or refusal to
work by any of the
Company's officers or
employees or the
Department's officers
servants or personnel
(as appropriate) or a
dispute between the
Company and its
officers and employees
or any of them or the
Department and its

"Industrial action"

"Initial Period"

officers servants or
personnel or any of
them (as appropriate)
which in any such case
prevents the Company
or the Department (as
appropriate) from
performing any of its
obligations hereunder
means the period of
ten years commencing
on a date to be agreed
between the Department
and the Company but in
default of agreement
(which default shall
not be subject to
arbitration under
clause 17 which is
hereby specifically
excluded for the
purposes of this
definition) on the
thirtieth day after
the date of service of
notice by the
Department to the
Company in accordance

"Interim Payments"

with the provisions of
clause 7.1.1 hereof
means such amount as
in the opinion of the
Department fairly
represents the
anticipated
Fluctuating Charges
for the Accounting
Year more particularly
referred to in
paragraph 2 of the
First Schedule

"Insured risks"

means fire lightning
explosion
earthquake storm
tempest flood riot
strike lock-out civil
commotion accidental
and malicious damage
aircraft and aerial
devices and articles
dropped therefrom and
electrical/mechanical
breakdown and/or
derangement and such
other insurable risks
as the Department

shall from time to
time or at any time
reasonably deem
appropriate to the new
replacement value of
the Department's
Linkbridge together
with three years
Prescribed Charges and
such additional costs
and expenses including
but not limited to
architects engineers
and/or surveyors' fees
together with
demolition and site
clearing costs and
expenses and any other
costs charges fees
disbursements expenses
duties and taxes which
are in relation to or
in connection with the
demolition or
rebuilding and/or
reinstatement of the
Department's
Linkbridge or any part

"Licensed Period"

thereof and any
approval required
therefor
means subject to prior
determination of this
Agreement as
hereinafter provided
(a) the Initial Period
and
(b) if either the
Department or the
Company shall
exercise the option
on their respective
part in accordance
with clause 12
hereof the Further
Period

"Linkbridge"

means for the purposes
of this Agreement a
harbour facility
being a ramp or bridge
and which ramp or
bridge can be adjusted
to accommodate tidal
conditions prevalent
to a harbour to enable
the loading or

unloading of vessels
of a tonnage equal to
or in excess of 100
Gross Registered
TONNES which is
secured in a harbour
and which incorporates
a road or way over
which Accompanied
Vehicles and/or
Freight could be
driven towed or
propelled (in either
direction) between the
vessel and the shore
in the course of
loading or unloading
the same onto or from
the vessel (Provided
That any harbour
facility which
facilitates or is used
only in the course of
loading or unloading
fishing vessels (of
every description)
and/or vessels for the
time being used in the

transportation of
persons plant
machinery equipment
apparatus
vehicles and/or
supplies to or from
any off-shore
structure or platform
situate within the
Irish Sea shall not be
deemed to be a
"Linkbridge" for the
purposes of this
definition or this
Agreement)
means the Isle of Man
General Index of Retail
Prices published by the
Treasury or any
official publication
substituted therefor
means expenditure to
promote travel by
passengers with and
without Accompanied
Vehicles by sea to the
Island (a) on
advertising off-Island

"Manx Retail Price
Index"

"Marketing
Expenditure"

(including off-Island radio and/or television even if any broadcast can be received on Island) (b) reasonable and proper payments to public relations firms organisations or persons for such off-Island promotional work (c) on reasonable and proper costs incurred by the Company of attendance by Company personnel at appropriate exhibitions off-Island (including a fair allocation of the wages of appropriate Company personnel) (d) on reasonable and proper wages and expenses of Company personnel visiting appropriate travel agents and material or substantial potential customers (e) on the

cost of preparation
printing distribution
of direct mail shots
including appropriate
apportionment of
Company personnel's
wages relevant thereto
(f) on proper and
reasonable share of
expenditure incurred
by the Company
relevant to any
appropriate joint
venture with a third
party company
(g) on postal and
printing costs of
appropriate brochures
and any one or more of
the above

"Month"

means calendar month

"Navire Linkbridge"

means the Linkbridge
as at 1st January 1995
installed in Douglas
Harbour to the west of
Number 6 berth and
used by the
Company at the date

"Passenger and
Accompanied Vehicle
Return Service"

hereof

means a Return Service
of:

- (1) Passengers and
- (2) Passengers with
Accompanied
Vehicles by means
in either direction
of a Vessel
with appropriate
passenger
accommodation
notwithstanding
that such Vessel
may also carry
Freight

"Prescribed Charges"

means in respect of any
Accounting Year the
aggregate of:-

- (a) the Fixed Charge
and
- (b) the Interim
Payments and
- (c) the Fluctuating
Charges if the
Fluctuating
Charges shall
exceed the

aggregate of the
Interim Payments
in respect of the
appropriate
Accounting Year
but only to the
extent of any such
excess

"Prime Slot Time"

means a Slot Time or
two Half Slot Times
identified by the
Company as required by
clause 6.2.2.1 as a Prime
Slot Time but so that
there shall not be
more than one Prime
Slot Time so
identified by the
Company for any one
day

"Rebated Sum"

means such appropriate
amount calculated in
accordance with the
provisions of the
Third Schedule as
shall be payable (or
at the option of the
Company) credited to

or the Company shall exercise the option to renew in accordance with the provisions of clause 12 hereof the twelfth anniversary of the date of commencement of the Initial Period

"Ro-Ro Freight Return Service"

means Return Service of Freight capable of being loaded on to and unloaded from a Vessel over and along a Linkbridge or other similar structure and notwithstanding that such Vessel may have facilities for passengers and passengers with Accompanied Vehicles

"Shoulder Periods"

means the period from the expiration of the Easter Period to the last weekend in May (such weekend being excluded) and the

(b) a period of time not exceeding in the aggregate thirty minutes during which period of time the appropriate Vessel undertakes and completes all appropriate manoeuvres and other things to complete the respective berthing of such Vessel at the Department's Linkbridge and the removal of such Vessel from the Department's Linkbridge and the adjacent berth and all approaches thereto

"Specified Purposes"

means the traversing over and along the Department's

Linkbridge of foot
passengers and crew
(but only in
accordance with and
subject to the
provisions of clause
3.38) Accompanied
Vehicles and Freight
for the purpose of
embarkation or
disembarkation loading
or unloading of any
Vessel capable of
using the Department's
Linkbridge without
necessitating any
structural alteration
modification or
improvement thereto
and anything ancillary
or incidental thereto
means a scheduled
sailing or proposed
scheduled sailing (not
exceeding in the
aggregate 70 such
sailings in any one
year during the

"Standby Sailing"

subsistence of this Agreement) which scheduled sailing or proposed scheduled sailing is designated by the Company for the purposes of clause 6.2.2.1 as a Standby Sailing

"Summer period"

means the period (excluding the T.T. Period) between the last weekend in May and the first Monday in September (such weekend and Monday being inclusive) in each year

"T.T. Period"

means the period commencing three days before the scheduled commencement of the official practices for the Tourist Trophy Races and expiring at 2400 hours on the second day after the day of the last

	scheduled Tourist Trophy Race in each year
"Tourist Motor Sport Event"	means an event consisting in whole or in part of competition between motor vehicles (of whatsoever kind and whatsoever propulsion) which event is wholly or largely organised sponsored or underwritten by the Department of Tourism in any year
"Vessel"	means either a Conventional Vessel or a Fast Craft for the time being owned leased chartered or operated by or in conjunction with the Company
"Victoria Linkspan"	means the Linkspan owned occupied or used by the Company and

"Weather conditions"

located immediately adjacent to the south side of Victoria Pier in Douglas Harbour means any adverse weather conditions which prevents any Vessel for the time being used in connection with the performance by the Company of its obligations hereunder from undertaking the appropriate Return Service or part thereof

"Week"

means a period of seven days commencing at 00.01 hours Sunday and terminating at 2400 hours on the next following Saturday

"Weighted Basis"

means for the purposes of clause 5.2 or clause 5.3 the aggregate of the product of the

proposed percentage
change in each
category of published
or proposed published
(as applicable) fare
or charge and the
volume of traffic in
that category of
published fare or
charge expressed as a
decimal fraction of
the total volume of
traffic

"Year"

means

(a) with reference to
the Licensed
Period "year" or
similar wording
shall be construed
as meaning the
period of 365 days
(or 366 days if
such period
includes 29th
February)
calculated from
but including the
date of

commencement of
the Licensed
Period or any
anniversary
thereof as
appropriate or
(b) unless the context
shall otherwise
require means
calendar year

- 1.2 Reference to any statute or statutory provision includes a reference to:-
- 1.2.1 that statute or statutory provision as from time to time amended extended or re-enacted or consolidated and
- 1.2.2 all Statutory Instruments Bye-laws Directions Regulations Orders or subordinate legislation made pursuant to it
- 1.3 Words denoting the singular shall include the plural and vice versa Words denoting any gender include all genders and words denoting persons shall include firms and corporations and vice versa
- 1.4 Unless the context otherwise requires reference to any clause or sub-clause is to a clause or sub-clause (as the case may be) of or to this Agreement

1.5 The headings and Index in this document are inserted for convenience only and shall not affect the construction or interpretation of this Agreement

1.6 Unless the context otherwise requires reference to this Agreement shall include the Schedules

AGREEMENT

2. Subject to the provisions of this Agreement and in particular without prejudice to the generality of the foregoing clauses 3.39.2 3.39.3 6 7.6 and 19 and in consideration of the payments to be made and covenants conditions and obligations on the part of the Company herein contained the Department gives to the Company the right (subject only to and in common with the Department and all others authorised (directly or indirectly) by the Department under or by virtue of the provisions of clause 8) to use the Department's Linkbridge during the Licensed Period for the Specified Purposes PROVIDED ALWAYS without prejudice to the provisions of clause 8 the Department will not use the Department's Linkbridge for the operation by the Department itself or by any person on its behalf of vessels (owned leased or chartered by the Department) for the carriage by sea of passengers or passengers with Accompanied Vehicles or Freight

between the Isle of Man and any port outside the territorial waters of the Isle of Man

COMPANY'S COVENANTS AND OBLIGATIONS

3. In consideration of the rights granted to the Company by the Department and the obligations on the part of the Department herein contained but subject to the Department not at any time being in breach of any of the covenants conditions or obligations on its part herein contained the Company covenants and undertakes:-

3.1 to pay to the Department without any deduction or abatement whatsoever:-

3.1.1 the Fixed Charge on invoice by equal quarterly payments in advance without deduction in each year of the Licensed Period and proportionately for any period of less than a year the first such quarterly payment to be paid on the commencement of the Licensed Period and to be in respect of the three month period commencing on the commencement date of the Licensed Period PROVIDED THAT until the Company shall receive the certificate of the Department's External Auditors relevant to the amount of the Capital Monies in

accordance with clause 7.1.2 (the Department using its best endeavours to procure that the certificate required under clause 7.1.2 is obtained as soon as reasonably practicable) the Company shall pay on invoice in advance quarterly instalments without deduction of THIRTY TWO THOUSAND POUNDS (£32,000.00) on account and on the next quarterly payment date following receipt of such certificate the Company shall pay to the Department the correct quarterly instalment of the Fixed Charge together with the difference (if any) between the total amount paid by the Company on account of the Fixed Charge and the total amount which would have been paid if the Fixed Charge had been ascertained at the commencement of the Licensed Period

3.1.2 The Interim Payments on invoice by equal quarterly payments in advance in every Accounting Year during the Licensed Period and proportionately for any period of less than such a

year PROVIDED THAT the Interim Payments in respect of the first Accounting Year shall be notified by the Department to the Company prior to the commencement of the Licensed Period and the whole amount of such Interim Payments shall be paid by the Company to the Department on the commencement of the Licensed Period

3.1.3

In respect of the appropriate Accounting Year the Fluctuating Charges on invoice and calculated and payable in accordance with the provisions of the First Schedule PROVIDED THAT notwithstanding termination of this Agreement (whether by effluxion of time or otherwise) the Company shall pay to the Department and remain liable for the Fluctuating Charges calculated and payable as aforesaid relevant to the last Accounting Year of the Licensed Period and accordingly the provisions of this clause 3.1.3 and the First and Second Schedules shall be deemed to continue and remain in full force and effect until such liabilities

have been satisfied notwithstanding
termination of this Agreement

- 3.1.4 Within seven days of any written demand so to do all charges payable (less any discount if the Company pays in sufficient time to enable such discount to be claimed) by the Department to the supplier thereof for electricity consumed or used at or in relation to the Department's Linkbridge (including meter rents)
- 3.1.5 Within seven days of any written demand so to do the Harbour Dues
- 3.1.6 Within seven days of any written demand so to do an amount equal to the relevant excess under any policy of insurance effected by the Department in respect of which the Department makes a claim PROVIDED THAT the Company shall not be liable for any such amount if the claim under the appropriate insurance policy is due to any act or neglect of the Department or any third party
- 3.1.7 Value Added Tax (or any tax of a similar nature that may be substituted for it or levied in addition to it) chargeable in

respect of any payment made by the Company under any of the terms of or in connection with this Agreement

- 3.2 Subject to Weather conditions to provide Ro-Ro Freight Return Service between Douglas and such port in the north west of England as shall from time to time be selected by the Company
- 3.2.1 Such service to provide on five days in each week one or more Ro-Ro Freight Return Service using for each direction of Return Service one or more Vessels with a or an aggregate minimum five hundred lane metre capacity on each day in each direction provided that on the day immediately following any Bank Holiday and on any day during the Christmas Period the minimum capacity shall be one hundred lane metres and if more than one Vessel is used for any direction then for the purposes of clause 3.2.3 all such Vessels save and except the first Vessel shall be disregarded
- 3.2.2 Such service to provide on one day each week (not being on the same day as any Return Service provided in accordance with clause 3.2.1) a Ro-Ro Freight Return Service using for each direction of such

Return Service a Vessel with a minimum one hundred lane metre capacity

- 3.2.3 Between each such Return Service (and the commencement of any corresponding part thereof) there shall not be less than eighteen hours

PROVIDED THAT nothing contained in this clause shall require the Company to provide a Ro-Ro Freight Return Service on any day which is a Bank Holiday and the obligations of the Company under Clause 3.2.1 shall be reduced accordingly in respect of any week in which there is one or more Bank Holidays

- 3.3 Subject to Weather conditions to provide a Passenger and Accompanied Vehicle Return Service:-

- 3.3.1 Between Douglas and a port in the north west of England selected from time to time by the Company on not less than Three Hundred and Eighty Two (382) times in each year PROVIDED THAT there shall not be less than six such Return Services in each week and subject to prior written consent of the Department (which consent shall not be unreasonably withheld) there shall in respect of such six Return Services be not less than eighteen hours

and not more than sixty hours between the commencement of each such Return Service

3.3.2 Without prejudice and in addition to clause 3.3.1 between Douglas in the Isle of Man and a port situate in Liverpool or Holyhead or in between such ports selected from time to time by the Company on not less than One Hundred and Four (104) times in each year and not less than three times in each week (in respect of such three Return Services there being not less than twenty four hours between the commencement time of each such Return Service) during the Summer period the T.T. period and Easter period and otherwise not less than once in each week

3.3.3 On not less than SIXTY THREE (63) times in each year between Douglas in the Isle of Man and a port or ports situate on the East coast of Ireland selected from time to time by the Company (whether the port or ports are on the East coast of the Republic of Ireland or the East coast of Northern Ireland) PROVIDED THAT such number of such Return Services shall include:-

3.3.3.1.1 Subject to the provisions of clause
3.3.3.1.2 during each Summer period

not less than three such Return Services in each week and during each T.T. period not less than two such Return Services in each week and

3.3.3.1.2 During that part of the Summer period commencing during the week immediately following the cessation of the T.T. period and ending on the last day of the Summer period (inclusive) not less than one additional Return Service in each week but if during the appropriate week in the immediately preceding year (and for the avoidance of doubt with reference to calculations relevant to the first year of this Agreement the expression "immediately preceding year" shall be construed as the twelve month period immediately preceding the commencement of the Licensed Period but if the commencement of the Licensed Period shall be before 1st October 1995 then the Company shall not be required to comply with the provisions of this sub-clause 3.3.3.1.2 in respect of the Summer

period ending on the first Monday in September 1995) the Average load factor shall have been less than thirty per cent then the Company shall be entitled in the corresponding week (but only as to the corresponding week) in the then current year not to undertake such additional Return Service PROVIDED THAT if in any subsequent year the Average load factor shall be such that the Average load factor would equal or be increased above thirty per cent during any appropriate week if there had been an Additional Return Service then the Company shall undertake such additional Return Service during the corresponding week in the then next following year and

3.3.3.2 During the Shoulder Periods not less than one such Return Service each week and

3.3.3.3 Notwithstanding that any port or ports for the time being normally used by the Company in discharge of its obligations under this clause

3.3.3 may not be situate on the East

coast of Northern Ireland during the Summer Period not less than one Return Service in each week between Douglas and a port situate on the East coast of Northern Ireland selected from time to time by the Company

3.3.3.4 Notwithstanding that any port or ports for the time being normally used by the Company in discharge of its obligations under this clause 3.3.3 may not be situate on the East coast of the Republic of Ireland during the Summer Period not less than one Return Service in each week between Douglas and a port situate on the East coast of the Republic of Ireland selected from time to time by the Company

3.4 Without prejudice to the provisions of clause 3.3.3 but subject to Weather conditions to provide such Passenger and Accompanied Vehicle Return Service between Douglas and a port situate on the East coast of the Republic of Ireland selected from time to time by the Company as shall be appropriate in each year to meet the anticipated passenger (with and without Accompanied Vehicles) demand during

the Dublin Holiday Period in each year

3.5 Without prejudice to the provisions of clause 3.3.3 but subject to Weather conditions to provide such Passenger and Accompanied Vehicle Return Service between Douglas and a port situate on the East coast of Northern Ireland selected from time to time by the Company as shall be appropriate in each year to meet the anticipated passenger (with and without Accompanied Vehicles) demand during the Belfast Holiday Period

3.6 In addition to the provisions of clause 3.3.3 but subject to Weather conditions to provide passenger and passenger with Accompanied Vehicle service by Vessel with appropriate passenger accommodation:-

3.6.1 From Douglas to a port situate on the East coast of the Republic of Ireland selected from time to time by the Company not less than once during the period from 22nd December to 24th December (both dates inclusive) in each year and

3.6.2 From a port situate on the East coast of the Republic of Ireland selected from time to time by the Company to Douglas not less than once during the period from 27th

December to the next following 3rd
January (both dates inclusive) in
each year

3.7 In addition to the provisions of 3.3.3 but
subject to Weather Conditions to provide
Passenger and Accompanied Vehicle Return
Service between Douglas and a port situate on
the East coast of the Republic of Ireland
selected from time to time by the Company not
less than twice during the Easter period with
not less than 48 hours between each such
Return Service

3.8 In addition to the provisions of clause 3.3.3
but subject to Weather conditions
to provide a Passenger and Accompanied Vehicle
Return Service between Douglas and a port
situate on the East coast of Northern Ireland
selected from time to time by the Company not
less than twice during the Easter period in
each year with not less than 48 hours between
each such Return Service

3.9.1 In selecting any port to meet the
Company's respective obligations under
clauses 3.2 to 3.8 (inclusive) and 3.10
the Company shall ensure that each
selected port:

3.9.1.1 has good accessibility by public
roads and public transport and

3.9.1.2 has good harbour facilities which facilitate accessibility at all reasonable times notwithstanding tidal conditions and enables timeous berthing of the appropriate Vessel and embarkation and disembarkation of passengers and Passengers and Accompanied Vehicles and loading and unloading of Freight and

3.9.1.3.1 if the selected port shall be selected by the Company as contemplated by clause 3.9.3 such selected port has or within a period of six months from commencement of use of the selected port by the Company will have good passenger Passenger and Accompanied Vehicle and/or Freight handling facilities appropriate to the proposed usage of the selected port by the Company or

3.9.1.3.2 if the selected port is selected or nominated by the Company as contemplated by clause 3.9.4 such selected or nominated port has or within a period of twelve months from commencement of use of the selected port by the Company will have good passenger Passenger and

Accompanied Vehicle and/or Freight handling facilities appropriate to the proposed usage of the selected port by the Company

3.9.2 for the purposes of selection the Department and the Company agree that all ports used by the Company for the provision of scheduled Passenger and Passenger and Accompanied Vehicle Return Services or scheduled Ro-Ro Freight Return Services during the calendar year 1994 are deemed to meet the criteria set forth in clause 3.9.1

3.9.3.1 if the Company desires to select any port for use in connection with any of the services to be provided by the Company under clauses 3.2 to 3.8 (inclusive) or 3.10 and the Company does not desire to commence usage of the proposed selected port prior to the expiration of six months from the date of giving of any notice by the Company to the Department in accordance with the terms of this sub-clause 3.9.3.1 the Company shall notify the Department in writing of the selection of such proposed port and shall confirm to the Department that such port in the opinion of the Company meets the

criteria specified in clause 3.9.1.1
3.9.1.2 and 3.9.1.3.1

3.9.3.2 within one month of receipt by the
Department of any notice given by the
Company under clause 3.9.3.1 the
Department shall notify
("counter-notice") the Company in writing
if it objects to the port so selected and
the Department shall state in such
counter-notice the reasons why the
Department does not consider such
selected port meets the criteria
specified in clause 3.9.1.1 3.9.1.2 or
3.9.1.3.1 If within fourteen days from
receipt of the counter-notice by the
Company the Department and the Company
shall fail to agree that the selected
port meets the criteria specified in
clause 3.9.1.1 3.9.1.2 and 3.9.1.3.1 or
shall fail to reach a binding resolution
of the matter then the selection of such
port shall be referred to arbitration in
accordance with the provisions of clause
17

3.9.3.3 If the Arbitration Tribunal as more
particularly referred to in clause 17
shall determine that the port selected by
the Company does not meet the criteria



specified in clause 3.9.1.1 or 3.9.1.2 or in the case of clause 3.9.1.3.1 will not meet such criteria within the period of six months then the Company shall be required to select another port and the provisions of clause 3.9.4 shall apply to such latter selected port and the provisions of clause 3.9.4.3.2 shall apply to the originally selected port

3.9.4.1 Upon selection by the Company of any port for use in connection with any of the services to be provided by the Company under clauses 3.2 to 3.8 (inclusive) or 3.10 (other than a port initially selected as contemplated under clause 3.9.3) the Company shall immediately notify the Department in writing of the selection of such port and shall confirm to the Department that such port in the opinion of the Company meets the criteria specified in clause 3.9.1.1 3.9.1.2 and 3.9.1.3.2

3.9.4.2 within one month of receipt by the Department of any notice given by the Company under clause 3.9.4.1 the Department shall notify ("contra-notice") the Company in writing if it objects to the port so selected and the Department

shall state in such contra-notice the reasons why the Department does not consider such selected port meets the criteria specified in clause 3.9.1.1 3.9.1.2 or 3.9.1.3.2 If within fourteen days from receipt of the contra-notice by the Company the Department and the Company shall fail to agree that the selected port meets the criteria specified in clause 3.9.1.1 3.9.1.2 and 3.9.1.3.2 or shall fail to reach a binding resolution of the matter then the selection of such port shall be referred to arbitration in accordance with the provisions of clause 17

3.9.4.3 if the Arbitration Tribunal as more particularly referred to in clause 17 shall determine that the port selected by the Company does not meet the criteria specified in clause 3.9.1.1 3.9.1.2 or in the case of clause 3.9.1.3.2 will not meet such criteria within the period of twelve months then the Company shall nominate another port and such nomination shall be subject to the provisions of this clause 3.9.4 PROVIDED THAT:-

3.9.4.3.1 the nomination of a second port or

any subsequent port shall be made within two months or as soon as practicable thereafter from the date of determination by the Arbitration Tribunal that the originally selected port or any such second port or subsequently nominated port is not acceptable and

3.9.4.3.2 until a port is nominated which meets the agreement of the Department or is determined to be acceptable by the Arbitration Tribunal the Company shall be entitled to continue to use the port originally selected by the Company but within six months from the date of agreement by the Department or approval by the Arbitration Tribunal of any nominated port the Company shall cease to use the originally selected port and shall use such nominated port in substitution therefor

3.9.5 Notwithstanding the provisions of this clause 3.9 the Company may in case of emergency select and use for a temporary period (which shall not exceed the period of the emergency or so soon thereafter as

practicable the Company using its best endeavours to effect the termination of the use of the temporary port) any port situate within the geographical confines specified for the appropriate service notwithstanding that such selected port shall not comply with the criteria specified in clause 3.9.1

3.10 Notwithstanding the obligations on the part of the Company under clauses 3.3.1 and 3.3.2 during each year of the subsistence of this Agreement to provide adequate passenger and Passenger and Accompanied Vehicle Return Service between ports referred to in clauses 3.3.1 and 3.3.2 or as may from time to time be substituted therefor (as the case may be) to meet the reasonable requirements of participants and spectators in connection with any Tourist Motor Sport Event held in any year

3.11 Subject to the provisions of clause 3.11.2 that with respect to Passenger and Accompanied Vehicle Return Services provided by the Company in each month in performance of its obligations under this Agreement the Company shall ensure:-

3.11.1.1 as to Conventional Vessels used in respect thereof the aggregate passenger and Passenger and

Accompanied Vehicle capacity of such Conventional Vessels in each month shall be equal to or exceed 150% of the respective total number of passengers and Passengers and Accompanied Vehicles transported by Conventional Vessel on Return Services between Douglas and the appropriate other port (or in respect of the North West of England the analogous appropriate other port) in the same month in the immediately preceding year and

3.11.1.2 as to Fast Craft used in respect thereof the aggregate passenger and Passenger and Accompanied Vehicle capacity of such Fast Crafts shall be equal to or exceed 110% in respect of each of the months June July August and September and 130% in respect of all other months of the respective total number of Passengers and Passengers and Accompanied Vehicles transported by Fast Craft on Return Services between Douglas and the appropriate other port (or in respect of the North West of England the

analogous appropriate other port) in the same month in the immediately preceding year

3.11.1.3 PROVIDED THAT:-

(a) for the purpose of the calculation in accordance with clause 3.11.1.1 if the Company shall have used Fast Craft in the same month in the immediately preceding year and in the same month in the current year is to use Conventional Vessels then the aggregate passenger and Passenger and Accompanied Vehicle capacity of Conventional Vessels in the corresponding month in the then current year shall be equal to or exceed 150% of the respective total number of passengers and Passengers and Accompanied Vehicles transported by Fast Craft on Return Services between Douglas and the appropriate other port (or in respect of the North West of England the analogous appropriate other port) in the same month in the immediately preceding year and

(b) for the purpose of the

calculation in accordance with clause 3.11.1.2 if the Company shall have used Conventional Vessels in the same month in the immediately preceding year and in the same month in the current year is to use Fast Craft then the aggregate passenger and Passenger and Accompanied Vehicle capacity of Fast Craft in the corresponding month in the then current year shall be equal to or exceed in respect of each of the months June July August and September 110% and in respect of all other months 130% of the respective total number of passengers and Passengers and Accompanied Vehicles transported by Conventional Vessel on Return Services between Douglas and the appropriate other port (or in respect of the North West of England the analogous appropriate other port) in the same month in the immediately preceding year

(c) for the purpose of calculation under clauses 3.11.1.1 and 3.11.1.2 if the Company shall have used a combination of both Conventional

Vessels and Fast Craft in the same month in the preceding year then the Company will in the corresponding month in the current year either:-

(i) if it maintains the same combination of both Conventional Vessels and Fast Craft provide aggregate passenger and Passenger and Accompanied Vehicle capacity in line with the increased capacity for each type of vessel calculated in accordance with clauses 3.11.1.1 and 3.11.1.2 above

(ii) if it uses Conventional Vessels it will provide aggregate passenger and Passenger and Accompanied Vehicle capacity in the corresponding month in the then current year equal to or exceeding 150% of the total number of passengers and Passengers and Accompanied Vehicles transported by Conventional Vessels and Fast Craft in the same month in the immediately preceding year

(iii) if it uses Fast Craft it will provide aggregate passenger and Passenger and Accompanied Vehicle

capacity in the corresponding month in the then current year equal to or exceeding in respect of each of the months June July August and September in the then current year 110% or in respect of every other month in the then current year 130% of the total number of passengers and Passengers and Accompanied Vehicles transported by Conventional Vessels and Fast Craft in the same month in the immediately preceding year

3.11.2.1 For the avoidance of doubt in calculating the aggregate passenger and Passenger and Accompanied Vehicle capacity of Conventional Vessel or Fast Craft for the purpose of sub-clause 3.11.1 in respect of the calculations relevant to the first year of the Licensed Period the expression "the immediately preceding year" shall be construed as the twelve month period immediately preceding the commencement of the Licensed Period

3.11.2.2 notwithstanding the provisions of sub-clause 3.11.1 the Company shall

ensure that in each week or appropriate part thereof during each T.T. period and Easter period the aggregate passenger and Passenger and Accompanied Vehicle capacity of all Vessels providing the Return Services during each such week or appropriate part thereof shall be not less than that required to meet the aggregate number of passengers and Passengers and Accompanied Vehicles who used the corresponding Return Service in the same week or appropriate part thereof in the then immediately preceding T.T. period or Easter period as appropriate Provided that if the then immediately preceding T.T. period included a Bank Holiday but such Bank Holiday is not included in the current T.T. period the Company shall be entitled to make due allowance for any reasonably anticipated reduction in passengers and Passengers and Accompanied Vehicles caused thereby

3.11.2.3 if during the same month or the T.T. period or Easter period in the

immediately preceding year there was disruption (whether by Force Majeure Weather conditions Industrial action or otherwise) to the Return Services then for the purposes of calculating capacity in accordance with clause 3.11.1 read in conjunction with and subject to the provisions of clause 3.11.2.2(a) the words "in the next before preceding year during which there was no disruption (whether by Force Majeure Weather conditions Industrial action or otherwise)" shall be substituted for the words "in the immediately preceding year" in clause 3.11.1 and (b) the words "in the next before preceding T.T. period and Easter period (as appropriate) during which there was no disruption (whether by Force Majeure Weather conditions Industrial action or otherwise)" shall be substituted for the words "in the then immediately preceding T.T. period or Easter period as appropriate"

3.12 Without prejudice to the Company's obligations under this clause 3 and subject to the

provisions of and compliance by the Company with clause 6.2.3.1 and 6.3 and any directions orders or other thing from time to time deemed appropriate in connection with the operation or management of Douglas Harbour or the approaches thereto the Company may provide from time to time any additional Return Services to and from the Isle of Man and the Company shall notify as soon as practicable the Department in writing of any such additional Return Service provided that any additional Return Services shall not conflict or interfere with any other use or proposed use of the Department's Linkbridge of which the Company shall have received notice from the Department in accordance with clause 8

3.13 All Vessels used by the Company in the performance of its obligations under clauses 3.2 to 3.8 and 3.10 and any additional Return Services from time to time provided by the Company:-

3.13.1 Shall be of a high standard of quality safety and reliability and shall accord with and conform to all appropriate national and international agreements conventions regulations directives Codes of Practice and other appropriate

matters for the time being in force and shall accord with best industry practice for the time being

3.13.2 Shall comply with all existing or future Act or Acts of Tynwald Act or Acts of Parliament or other appropriate statutes or statutory provisions applicable to the Vessel including without prejudice to the generality of the foregoing any statutory instrument byelaw rule regulation direction order or other subordinate legislation made pursuant thereto

3.13.3 Shall be so manned fitted and in such condition to enable the Company to discharge its obligations hereunder as respects the standards and frequencies of services to be provided by the Company and so as to provide reasonable standards of services and facilities to passengers and Passengers and Accompanied Vehicles and Freight on board the Vessel and during the Vessel's loading and unloading and so as to comply with all requirements (if any) of any

appropriate certificate of insurance

- 3.14 Within the United Kingdom the Republic of Ireland and the Continent of Europe but not within the Isle of Man in each year during the Licensed Period to undertake by itself and/or through one or more wholly owned subsidiaries of the Company marketing in respect of those matters referred to in the definition of Marketing Expenditure and in respect thereof to expend either by itself and/or through one or more wholly owned subsidiaries of the Company a sum equivalent to not less than £300,000 per year (appropriately adjusted by reference to the Manx Retail Price Index as at mid-January 1994) PROVIDED THAT:-
- 3.14.1 prior to the commencement of each financial year of the Company the Company shall consult with the Department of Tourism prior to the allocation of the Company's and/or one or more of its wholly owned subsidiaries Marketing Expenditure for the next following financial year of the Company
- 3.14.2 following such consultation and within a reasonable time thereafter

the Company shall inform the Department of Tourism in writing of the Company's decision as to the amount proposed to be expended by it and/or one or more of its wholly owned subsidiaries on Marketing Expenditure in the United Kingdom Republic of Ireland and the Continent of Europe during such next following financial year and shall simultaneously provide the Department of Tourism with a breakdown of such amount between the broad categories of items on which such Marketing Expenditure is proposed to be spent

3.14.3 each year during the subsistence of this Agreement within fourteen days from the publication of the Company's Annual Audited Accounts the Company shall deliver to the Department of Tourism a certificate signed by the Company's Auditors affirming the actual Marketing Expenditure of the Company and/or one or more of the wholly owned subsidiaries of the Company for the financial year to which such Annual

Accounts relate and simultaneous with the delivery of such certificate shall provide the Department of Tourism with its written explanation as to any significant differences between the actual allocation of the Marketing Expenditure and the proposed broad categories of expenditure notified under 3.14.2 above and then shall meet with the Department of Tourism within one month thereafter at such time as the Department of Tourism shall reasonably require to review the amount actually expended by the Company and/or one or more of the wholly owned subsidiaries of the Company in such financial year on Marketing Expenditure in the United Kingdom Republic of Ireland and the Continent of Europe

- 3.15 During the Initial Period to expend in the aggregate a sum not less than TWENTY MILLION POUNDS (£20,000,000) (appropriately adjusted by reference to the Manx Retail Price Index as at mid-January 1994) in the purchase or (subject to prior written agreement

between the Department with the advice of Treasury and the Company with the advice of its Auditors as to the calculation thereof) capitalised value of a lease or charter or refurbishment of Vessels for use in compliance with the Company's covenants and obligations hereunder PROVIDED THAT not less than the sum of FOURTEEN MILLION POUNDS (£14,000,000) (appropriately adjusted on the basis aforesaid) shall be so invested by the Company within seven years of the commencement of the Initial Period

3.16 Not to use or permit to be used the Department's Linkbridge for any purpose other than the Specified Purposes

3.17 Not to do or permit or suffer to be done on or to the Department's Linkbridge anything which may cause any insurance on or relevant to the Department's Linkbridge or any part thereof to be or become vitiated or whereby the premium payable under any such insurance is liable to be increased other than as a consequence of any claim or increase in premiums generally

3.18 Not to obstruct or permit to be obstructed at any time access to any fire

restricting preventing or fighting plant machinery equipment or apparatus or the means of escape from the Department's Linkbridge

- 3.19 To give notice to the Department immediately upon the happening of any event which might affect any insurance policy of or relating to the Department's Linkbridge or the premium(s) relevant thereto or upon the happening of any event against which the Department may have insured under this Agreement
- 3.20 Immediately to inform the Department in writing of any conviction judgment or finding of any court or tribunal in relation to the Company (whether directly or indirectly) of such a nature as to be likely to affect the decision of any insurer or underwriter to grant or to continue or renew any insurance of the Insured risks or any part thereof
- 3.21 That if and whenever during the Licensed Period the Department's Linkbridge or any part thereof is damaged or destroyed by an Insured risk and the insurance money under any policy of insurance effected by the Department is by any act omission or default of the Company its officers

servants agents invitees and/or licensees or any of them wholly or partially irrecoverable immediately and in every such case (at the option of the Department) either:

- 3.21:1 To rebuild and reinstate at its own expense the Department's Linkbridge or the part destroyed or damaged to the reasonable satisfaction and under the supervision of any surveyor from time to time appointed by the Department the Company being allowed towards the expense of so doing upon such rebuilding and reinstating being completed the amount (if any) actually received in respect of such destruction or damage under any such insurance policy or
- 3.21:2 To pay to the Department on demand with Interest the amount of such insurance monies so irrecoverable in which event the provisions of clauses 9 and 10 shall apply
- 3.22 To effect and continue throughout the Licensed Period all proper and appropriate insurance relevant to and in connection with the use (as herein

permitted) of the Department's Linkbridge by the Company its officers servants agents invitees and licensees (with or without vehicles) including without prejudice to the generality of the foregoing all appropriate public liability and employer's liability insurance in connection therewith and in each year to produce to the Department all appropriate certificates in respect of each such insurance (and if at any time requested by the Department the original or a copy of any such insurance policy) and the receipted invoice or other written matter evidencing payment of the premium or premiums in respect of the then current insurance year

3.23 At all times to comply with all statutes regulations directions or subordinate legislation relevant to the prohibition of discharge or discharge of matter or substance into any Harbour (and in particular without prejudice to the generality of the foregoing Douglas Harbour) and also without prejudice to the generality of the foregoing not to permit or suffer any oil grease or any deleterious objectionable poisonous or

explosive matter or substance to be discharged into Douglas Harbour and to take all measures to ensure that any effluent which may be permissible to be discharged will not be corrosive or otherwise harmful to Douglas Harbour

- 3.24 Not to form or permit to be formed or deposited any litter refuse dump rubbish or scrap heap on the Department's Linkbridge or any part thereof and forthwith to remove any litter rubbish refuse scrap or any other matter from time to time accidentally or otherwise deposited on the Department's Linkbridge or any part thereof
- 3.25 Not without the prior written consent of the Department (such consent not to be unreasonably withheld) to affix erect attach display exhibit or permit or suffer so to be upon any part of the Department's Linkbridge any placard poster notice advertisement name sign mast aerial or any transmitting or receiving device whatsoever PROVIDED THAT the Department shall consent to the affixing to the Department's Linkbridge of any necessary and appropriate safety notices which the Company is required to

display by law or under its obligations under clause 3.13 hereof but so that each such notice shall be of such size design materials and colours as the Department may require and shall be located in such position on the Department's Linkbridge as the Department shall reasonably require

- 3.26 Not to overload or permit or suffer to be overloaded the Department's Linkbridge or any part thereof (including without prejudice to the generality of the foregoing the floors floor joists supports of any ramp or bridge the structure or mechanism thereof) in any manner which will or may injure strain damage or interfere with the Department's Linkbridge or the operation or use thereof
- 3.27 To undertake every precaution within the Company's power which may be reasonably necessary to prevent damage by fire or explosion or collision to the Department's Linkbridge or any part thereof
- 3.28 Not to cause or permit any obstruction or the parking of any vehicle Freight or any other object on any part of the Department's Linkbridge or any roads or ways serving the same

3.29 Without prejudice to any of the provisions of this clause 3 at all times during the Licensed Period to comply with such directions orders regulations or subordinate legislation from time to time issued by the Department or the Chief Harbour Master or the Harbour Master of Douglas Harbour or any person or persons for the time being performing similar functions to the Chief Harbour Master or the Harbour Master of Douglas Harbour for the efficient running and security of Douglas Harbour

3.30 To indemnify and keep indemnified the Department from and against all liability of any kind to any person persons firm or body corporate owner or owners tenants occupiers or local or other Authority in respect of all losses damages actions proceedings suits claims demands costs liability and expenses whatsoever in respect of any injury to or the death of any person damage to or destruction of any property moveable or immoveable by reason of or arising in anyway directly or indirectly out of the use by the Company its officers servants agents invitees and/or licensees of the

Department's Linkbridge or any breach or non-compliance with or non-observance of any of the covenants conditions or obligations on the part of the Company herein contained and from all proceedings actions costs claims damages demands of whatsoever nature in respect of any such liability or alleged liability

3.31 Not to do permit or suffer to be done on the Department's Linkbridge or any part thereof or within Douglas Harbour or any approach thereto any act matter or thing whatsoever which may be or may lead or tend to the disturbance of or interference with or damage to the use or operation of the Department's Linkbridge or Douglas Harbour or any respective part or parts thereof and to indemnify and keep indemnified the Department from and against all actions costs claims damages proceedings expenses demands and liability whatsoever occasioned by or arising out of non-compliance by the Company its officers servants agents licensees and/or invitees of the covenant contained in this sub-clause

3.32 Within six months of receiving notice from the Department so to do (provided such

notice is served on or after the commencement of the Licensed Period) to remove the Navire Linkbridge from Douglas Harbour and to make good any damage sustained thereby to Douglas Harbour or any part thereof including without prejudice to the generality of the foregoing any pier structure turning circle berth or navigational approach channel PROVIDED THAT if the Company shall fail to comply with its obligation contained in this sub-clause then from the expiration of such six month period the Company shall pay to the Department (in addition and without prejudice to any other damages expenses or other monies properly payable) by way of liquidated damages the sum of £1,000.00 per day or any part thereof during which the Navire Linkbridge or any part thereof is situate within Douglas Harbour or any part thereof

3.33 Not to permit any Vessel to be berthed at the Department's Linkbridge or within such distance from the Department's Linkbridge which may interfere with the approach channel to the Department's Linkbridge or the use of the Department's Linkbridge by the Department or any duly

authorised user of which the Company shall have received notice from the Department in accordance with the provisions of clause 8 PROVIDED THAT this sub-clause shall not prohibit the berthing of any Vessel by the Company if such berthing shall not may not or is unlikely to interfere with or delay any other user of the Department's Linkbridge for the time being authorised or permitted by the Department in accordance with the provisions of this Agreement or if such berthing is undertaken consequent upon specific direction by the Harbour Master of Douglas

- 3.34 Notwithstanding the provisions of the previous sub-clause not knowingly to permit any Vessel or any other thing to interfere with the use and enjoyment of the Department's Linkbridge or any navigational approach thereto by the Department or any person from time to time authorised by the Department
- 3.35 At the expiration of the Licensed Period forthwith to cease to use the Department's Linkbridge for the Specified Purposes and for any other purpose whatsoever

- 3.36 To keep confidential and not to disclose (save as required by law or to enable the Company to take proper professional advice thereon provided such professional advisers are under a binding duty of confidentiality to the Department prior to such disclosure) or permit to be disclosed (whether by itself or by any of the Company's officers servants or agents) any proposals (including all information relevant thereto) by the Department to increase Harbour Dues of which the Company shall receive notice under clause 7.5
- 3.37 That the Company shall ensure that at all times there is issued or published by the Company or with its authority and available during normal business hours to the public on request:-
- (a) a publication which contains all necessary information to enable foot passengers to calculate therefrom the up to date (but which may be subject to review under clause 5.2 or 5.3) maximum fares or charges for each scheduled sailing payable by foot passengers for travel by Fast Craft and Conventional Vessel to and from the Isle of Man and
 - (b) a publication which contains all

necessary information to enable Passenger and Accompanied Vehicle to calculate therefrom the up to date (but which may be subject to review under clause 5.2 or 5.3) maximum fares or charges for each scheduled sailing payable by Passenger and Accompanied Vehicle for travel by Fast Craft and Conventional Vessel to and from the Isle of Man and

(c) a publication which contains all necessary information to enable persons proposing to ship by Vessel Freight to or from the Isle of Man to calculate therefrom the up to date (but which may be subject to review under clause 5.2 or 5.3) maximum fares or charges for each scheduled sailing payable by such persons

3.38 If the Department in accordance with the provisions of clause 7.10 consents to the Department's Linkbridge being used by foot passengers or crew for the purpose of access to and egress from a Vessel:-

3.38.1 the Company shall ensure (and shall do all acts and things and take all precautions as may be necessary to so ensure) the safety of all such passengers and crew and

3.38.2 the Company shall restrict the use

of the Department's Linkbridge as
aforesaid by foot passengers to such
times as shall be reasonably
required to enable such passengers
to board the Vessel immediately
prior to such Vessel's departure or
disembark from the Vessel
immediately subsequent to such
Vessel's berthing at the
Department's Linkbridge and

3.38.3 the Company shall restrict the use
of the Department's Linkbridge as
aforesaid by the crew of any Vessel
to such times as the appropriate
Vessel shall be loading
passengers and Passengers
and Accompanied Vehicles or Freight
(as applicable) immediately prior to
the departure of the Vessel or
unloading passengers and Passengers
and Accompanied Vehicles or Freight
(as applicable) immediately
subsequent to such Vessel berthing at
the Department's Linkbridge or during
such other times as the appropriate
Vessel shall be berthed at the
Department's Linkbridge and the
Department's Linkbridge shall be

manned by Department personnel

- 3.39.1 That in selecting any proposed Slot Time Prime Slot Time or Half Slot Time for the purpose of any then proposed scheduled sailing of which the Company is required to give the Department notice under clause 6.2.2.1 or in selecting any other Slot Time or Half Slot Time the Company shall exercise good faith and in particular without prejudice to the generality of the foregoing shall not attempt to frustrate the use of the Department's Linkbridge by any other user or proposed user of which the Company shall have received notice from the Department in accordance with clause 8 and
- 3.39.2 that the Company shall ensure (subject to Force Majeure Weather conditions or Industrial action) that during any Slot Time Prime Slot Time or Half Slot Time allocated to the Company the Department's Linkbridge shall be used by a Vessel for the purposes of loading and/or unloading such Vessel with passengers and Passengers

and Accompanied Vehicles and/or Freight PROVIDED that without prejudice to the obligations of the Company under clause 3.2 to 3.8 (inclusive) and 3.10 nothing herein contained shall require the Company to ensure that the Department's Linkbridge is used for the purpose of loading and/or unloading of a Vessel during a Slot Time which has been identified by the Company for use as a Standby Sailing whether under clause 6.2.2.1 or as varied in accordance with clause 6.2.3.2.3 and 3.39.3 that the Company shall ensure that no Vessel shall berth at the Department's Linkbridge during any period other than a Slot Time Prime Slot Time or Half Slot Time unless the Department shall have previously consented

BENCHMARK FARES AND CHARGES

4. For the purpose of this Agreement the Department hereby acknowledges that the Company's published passenger fares and freight charges for the year 1995 are to be treated as the benchmark against which the Company's future obligations hereunder are to be measured

5. **FARES AND CHARGES**

5.1 Notwithstanding any other provision hereof the Company shall ensure that at all times throughout the subsistence of this Agreement foot passenger Passenger and Accompanied Vehicle Freight and all other published fares and charges are only increased in accordance with the provisions of clauses 5.2 and 5.3 hereof.

5.2 If during the subsistence of this Agreement the Company desires at any time to introduce a new class or classes of published fares or charges in respect of foot passengers or Passengers and Accompanied Vehicles or Freight then the following provisions shall apply:

5.2.1 the Company shall give to the Department not less than two months prior written notice of any such proposed introduction of a new class or classes of published fares or charges and shall also notify whether or not the Company proposes to increase any of its then published fares or charges in respect of foot passenger or Passenger and Accompanied Vehicle or Freight and:-

5.2.1.1 shall simultaneously provide the Department with all reasonable details information and calculations of the proposed new class or classes of published fares or charges which enable the Department to fully consider the same and in particular without prejudice to the generality of the foregoing shall:-

5.2.1.1.1 provide the Department with details of the proposed new class or classes of fares or charges and whether the same shall apply to foot passenger and/or Passenger and Accompanied Vehicle and/or Freight and the fares or charges proposed to be charged by the Company in respect of such new class or classes and

5.2.1.1.2 provide the Department with a reasonable written explanation for the proposed introduction of such new class or classes and

5.2.1.1.3 provide the Department with

detailed calculations as to the effect such new class or classes would have had if the same had been introduced by the Company during the twelve month period immediately preceding the receipt by the Department of notice given under clause 5.2.1 and the anticipated effect on the overall fares and charges of the Company (on the assumption that no other change is proposed thereto) and the effect on traffic percentages and other relevant matters if the proposed new class or classes of fares or charges is introduced for the twelve month period immediately subsequent to receipt by the Department of such notice (such calculations to include details as exemplified in the Sixth Schedule) and

5.2.1.2 if the Company shall have informed the Department that it simultaneously desires to increase any then published

fares or charges the Company shall furnish the Department with a reasonable written explanation for the proposed increase

5.2.2 Within twenty one days of receipt by the Department of any notice given and details information and calculations provided by the Company under clause 5.2.1 the Department shall inform the Company in writing whether the Department requires any further information calculations or details and if the Department so notifies the Company the Company shall supply the same within twenty eight days of the request to do so by the Department

5.2.3 Within twenty eight days from the receipt of the notice given and the details information and calculations provided by the Company under clause 5.2.1 or from receipt by the Department of any further details information and/or calculations required by the Department under clause 5.2.2:-

5.2.3.1 the Department shall inform the

Company whether or not it
agrees with the calculations
details and information
supplied by the Company and

5.2.3.2 if the Department shall agree
with the calculations details
and information supplied by the
Company the Department shall
inform the Company in writing
whether or not:-

5.2.3.2.1 if the Company does not propose
to increase any of its then
published fares or charges the
introduction of the proposed
new class or classes of fares
or charges would in the opinion
of the Department constitute an
overall excessive increase
PROVIDED THAT if the effect of
the introduction of the proposed
new class or classes of fares or
charges aggregated with any
increase or increases effected
in published fares or charges
and aggregated with any
published fares or charges
reduced or left unchanged during
the twelve month period

immediately preceding the receipt by the Department of such notice does not exceed on a Weighted Basis (as exemplified in the Sixth Schedule) the annual percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issuing of any such notice less one half of one percent then such increase shall not be deemed to be excessive or

5.2.3.2.2 if the Company proposes to increase any of its then published fares or charges the introduction of the proposed new class or classes of fares or charges read in conjunction with any such proposed increase in the opinion of the Department is excessive PROVIDED THAT if the proposed introduction of the new class or classes of fares or charges read in conjunction with the proposed increase aggregated with any other increase or increases

effected in published fares or charges and aggregated with any published fares or charges reduced or left unchanged during the twelve month period immediately preceding the receipt by the Department of such notice does not exceed on a Weighted Basis (as exemplified in the Sixth Schedule) the annual percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issuing of any such notice less one half of one percent then such increase shall not be deemed to be excessive and

5.2.4 If the Department shall give notice to the Company under clause 5.2.3.1 that it does not agree with all or any part of the calculations details and information supplied by the Company relevant to any proposed new class or classes of fares or charges or gives notice to the Company under clause 5.2.3.2.1 or 5.2.3.2.2 then in any such case the Department and the

Company shall endeavour to reach agreement on the matter or matters in issue but if after the expiration of a further period of twenty eight days or such longer period as shall be agreed between the Department and the Company the Department and the Company shall still not agree then (subject to the Department obtaining the approval of the Council of Ministers) the matter or matters in issue shall be referred to arbitration in accordance with the provisions of clause 17 PROVIDED THAT if the Department shall not refer the matter or matters in issue to arbitration within six weeks from the expiration of the twenty eight day period above referred to in this clause 5.2.4 (or such longer period as the Department and the Company shall agree) the Department shall be deemed to have agreed such matter or all matters in issue and

5.2.4.1 if the Department shall not agree with all or any part of the calculations details and information relevant to the

proposed new class or classes of fares or charges the arbitration shall determine the effect such new class or classes of fares or charges would have had if the same had been introduced as proposed by the Company during the twelve month period immediately preceding the receipt by the Department of notice given under clause 5.2.1 and the anticipated effect on the overall fares and charges of the Company and the effect on traffic percentages and other relevant matters if the proposed new class or classes of fares or charges is introduced for the twelve month period immediately subsequent to receipt by the Department of such notice (as exemplified in the Sixth Schedule) and subsequent to or simultaneous with such determination the arbitration shall determine:-

5.2.4.1.1 if the Company does not

intend to increase any
of its then published
fares or charges
whether or not the
introduction of the
proposed new class or
classes of fares or
charges read in
conjunction with the
then published fares or
charges exceeds on a
Weighted Basis (as
exemplified in the
Sixth Schedule) the
annual percentage rate
of increase in the Manx
Retail Price Index for
the twelve months
immediately preceding
the issuing of any such
notice less one half of
one percent or

5.2.4.1.2

if the Company proposes
to increase any then
published fares or
charges whether or not
such proposed increase
read in conjunction

with the proposed new class or classes of fares or charges aggregated with any other increase or increases effected in published fares or charges and aggregated with any published fares or charges reduced or left unchanged during the twelve month period immediately preceding the receipt by the Department of notice given under clause 5.2.1 exceeds on a Weighted Basis (as exemplified in the Sixth Schedule) the annual percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issuing of any such notice less one half of

one percent and

5.2.4.2 if the Department shall agree with all calculations details and information supplied by the Company relevant to any proposed new class or classes of fares or charges the arbitration shall determine:-

5.2.4.2.1 if the Company does not intend to increase any of its then published fares or charges whether the proposed new class or classes of fares or charges when read in conjunction with the then published fares or charges would exceed on a Weighted Basis (as exemplified in the Sixth Schedule) the annual percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issuing of notice under clause 5.2.1 less one half of one percent or

5.2.4.2.2 if the Company proposes to increase any of its then published fares or charges

whether the proposed introduction of the new class or classes of fares or charges when read in conjunction with any such proposed increase(s) aggregated with any other increase or increases effected in published fares or charges and aggregated with any published fares or charges reduced or left unchanged during the twelve month period immediately preceding the receipt by the Department of such notice exceeds on a Weighted Basis (as exemplified in the Sixth Schedule) the annual percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issuing of any such notice less one half of one percent

- 5.2.5 If any matter or matters shall be referred to arbitration in accordance with the provisions of clause 5.2.4 then:-
- (a) from the date of such referral

up to and including the expiration of twenty eight days therefrom or until notification of the outcome of the arbitration (whichever shall be the earlier) the Company shall be entitled to introduce the proposed new class or classes of fares or charges and any such proposed increase(s) to the then published fares or charges PROVIDED that each such interim increase shall not exceed (without reference to the Weighted Basis) the Annual Percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issue of any such notice less one half of one percent and

(b) if notification of the outcome of the arbitration shall not be given during the referred to period of twenty eight days then from the expiration of such period of twenty eight days until notification of the outcome of the arbitration the Company shall be entitled to introduce the proposed new class or classes of fares or charges and any

such proposed increase(s) to the
then published fares or charges

but if the arbitration shall determine:-

5.2.5.1 that the introduction by the
Company of any such new class or
classes of fares or charges
would cause the Company's then
published fares or charges when
read in conjunction with such
new class or classes of fares or
charges to be excessive then the
Company shall be required to
reduce the fares or charges
introduced by such new class or
classes of fares or charges
and/or its then published fares
or charges so as to achieve an
overall increase which is not
excessive or

5.2.5.2 that any proposed increase in
the then published fares or
charges read in conjunction with
the new class or classes of
fares or charges is excessive
then the Company shall be
required to reduce the fares or
charges of the new class or
classes of fares or charges

and/or not to effect any such proposed increase(s) in the Company's then published fares or charges and/or to increase any of the Company's then published fares or charges by less than the proposed increase(s) so as to effect an overall increase which is not excessive

then within fourteen days of receipt of notification of determination of the arbitration the Company shall take all appropriate action to effect such reduction or reductions accordingly

5.3 If during the subsistence of this Agreement the Company desires at any time without introducing a new class or classes of published fares or charges to increase any of its published fares or charges in respect of foot passenger or passenger and Accompanied Vehicle or Freight then the following provisions shall apply:

5.3.1 The Company shall give to the Department not less than one month's prior written notice of any proposed increase and simultaneously furnish

the Department with a reasonable written explanation for the proposed increase

5.3.2 Within fourteen days of receipt of any such notice the Department shall inform the Company in writing whether or not the Department considers such proposed increase to be excessive PROVIDED THAT if the proposed increase aggregated with any other increase or increases effected in published fares or charges and aggregated with any published fares or charges reduced or left unchanged during the twelve month period immediately preceding the receipt by the Department of such notice does not exceed on a weighted basis (as exemplified in the Sixth Schedule) the annual percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issuing of any such notice less one half of one percent then such increase shall not be deemed to be excessive.

5.3.3 If the Department shall so inform the Company that it considers any

proposed increase to be excessive then the Department and the Company shall within one month thereafter seek to agree that there should be no such increase or as to the amount of such increase PROVIDED THAT if no agreement shall be reached between the Department and the Company then on the expiration of such one month period the Department may (with the approval of the Council of Ministers) refer such proposed increase to arbitration in accordance with the provisions of clause 17 hereof PROVIDED THAT if the Department shall not refer such proposed increase to arbitration within six weeks of the expiration of such one month period the Department shall be deemed to have accepted such proposed increase

- 5.3.4 If the proposed increase shall be referred to arbitration in accordance with the provisions of sub-clause 5.3.3 then:-
- (a) from the date of such referral up to and including the expiration of twenty eight days from the date

of such referral or until notification of the outcome of the arbitration (whichever shall be the earlier) the Company shall be entitled to levy such proposed increase(s) PROVIDED that each such interim increase shall not exceed (without reference to the Weighted Basis) the Annual Percentage rate of increase in the Manx Retail Price Index for the twelve months immediately preceding the issue of any such notice less one half of one percent and

(b) from the expiration of the referred to period of twenty eight days until the outcome of the arbitration the Company shall be entitled to levy such proposed increase(s)

but if the arbitration shall determine that there shall be no increase(s) or an increase(s) less than the proposed increase(s) then within fourteen days of receipt of notification of determination of the arbitration the Company shall reduce its fares or charges accordingly

5.4.1 If the Company desires at any time during the subsistence of this Agreement to reduce any fares or charges then it shall be entitled to do so but shall give to the Department prior written notice of such intention such notice shall specify the dates and services relevant to such proposed reduced fares or charges PROVIDED THAT the Company may increase such reduced fares or charges back to the level of such fares or charges which were in force immediately prior to such reduction and upon such reversion shall forthwith give to the Department due written notice thereof Any such reduction in fares or charges as aforesaid shall be ignored for the purposes of clauses 5.2 or 5.3 unless the Company shall inform the Department in writing at the time of the giving of any notice by the Company to the Department under clause 5.2.1 or 5.3.1 that such reduction in fares or charges as aforesaid is to continue and that the fares or charges so reduced are

thenceforth to be deemed to be the appropriate fares or charges for the appropriate services specified

5.4.2 If the Company desires at any time during the subsistence of this Agreement to publish any special fares or charges for a limited period which are less than those then usually charged by the Company the Company shall be entitled to do so but shall give to the Department prior written notice of such intention and shall specify the dates and services relevant to such special fares or charges PROVIDED THAT the Company may at any time withdraw the offer of such special fares or charges and revert to its fares or charges applicable immediately prior to such publication but shall forthwith notify in writing the Department of any such withdrawal Any such special fares or charges as aforesaid shall be ignored for the purposes of clause 5.2 or 5.3

5.4.3 For the purposes of this clause 5 if the Company intends at any time to effect any variation(s) and/or

abolition(s) of or to the Company's published fare band(s) relevant to foot passengers and/or Passengers and Accompanied Vehicles for sailings during any period compared with the equivalent period in the then immediately preceding year (due account being taken of corresponding sailings in the latter period) by way of or so as to cause any change from a lower fare band to a higher fare band (other than to reflect changes in the calendar of public holidays or sporting events) then such variation(s) and/or abolition(s) shall be deemed to be a proposed increase(s) in the Company's then published charges or fares and if the Company simultaneously intends to introduce a new class or classes of fares or charges then clause 5.2 shall apply but otherwise clause 5.3 shall apply

5.4.4 For the avoidance of doubt IT IS HEREBY AGREED that for the purposes of clauses 5.2 and 5.3 "increase" and "proposed increase" shall be read and construed as meaning not only any

actual increase or proposed actual increase but also any abolition(s) or variation(s) the result of which would be to effect an actual increase(s)

6. **SAILING SCHEDULES**

6.1 At all times during the subsistence of this Agreement the Company shall ensure that its published scheduled sailings do not breach any obligation on the part of the Company under clause 3 and that the same are sufficient and appropriate to meet the reasonable requirements of its customers (whether relevant to passengers Passengers and Accompanied Vehicles Freight or otherwise)

6.2 Subject to compliance at all times during the subsistence of this Agreement with the Company's obligations in accordance with clause 3 and clause 6.1 and subject to clause 6.3:-

6.2:1 Not less than three months before finalisation by the Company of its proposed sailing schedules the Company shall invite the Department of Tourism in writing to make suggestions (being by way of change variation addition deletion or

otherwise) for the Company's scheduled sailings for the next ensuing year commencing on the immediately next following January or such other twelve month period as the Company shall notify in writing to such Department. The Department of Tourism shall notify the Company in writing within forty two days of any such invitation of any such suggestions and the Company shall endeavour subject to practicability and viability to incorporate such suggestions into the Company's proposed schedule of sailings.

- 6.2.2.1 Not less than one month before finalisation by the Company of its proposed sailing schedules the Company shall provide the Department with its draft proposed scheduled sailings and proposed Slot Times and/or Half Slot Times (and shall simultaneously identify all Prime Slot Times and each Standby Sailing and each Vessel proposed to occupy the Department's Linkbridge during

each such proposed Slot Time
Prime Slot Time and Half Slot
Time and whether each such
Vessel shall be loading or
unloading Freight or Passengers
and Passengers and Accompanied
Vehicles or a mixture thereof)
for the next ensuing year
commencing on the immediately
next following January or such
other twelve month period as the
Company shall notify in writing
to the Department and the
Company shall also
simultaneously notify the
Department in writing of any
change between the proposed
scheduled sailings and/or
proposed Slot Times or Prime
Slot Times or Half Slot Times
and the Company's last published
sailings and/or Slot Times or
Prime Slot Times or Half Slot
Times then used by Vessels The
Department shall notify in
writing the Company as soon as
practicable or in any event
within twenty one days of any

such notice of any suggested changes (being by way of change variation addition deletion or otherwise) by the Department and the Company shall endeavour (subject to practicability and viability) to comply with such suggestions Provided That the Company shall be required to change any proposed Slot Time Prime Slot Time or Half Slot Time which breaches clause 6.3 or which conflicts or interferes with any other user or proposed user of the Department's Linkbridge of which the Company shall have received notice from the Department in accordance with clause 8 but with reference to any Slot Time Prime Slot Time or Half Slot Time the Company shall not be required to change any Slot Time Prime Slot Time or Half Slot Time which conflicts or interferes with any other user or proposed user of the Department's Linkbridge of which the Company shall have

received notice from the Department in accordance with clause 8 but does not breach clause 6.3 if the Company is able to make available the Victoria Linkspan (for the same consideration (if any) or less than the Department would have charged the appropriate third party for use of the Department's Linkbridge) for use by such other user or proposed user for the period which coincides with the slot time or half slot time required by such user or proposed user and the Victoria Linkspan and the berth adjacent thereto is capable of use by the vessel proposed to be used by such user or proposed user but if thereafter the Victoria Linkspan ceases to be available then the Company shall not be entitled to use the Department's Linkbridge for the appropriate Slot Time Prime Slot Time or Half Slot Time

6.2.2.2 if subsequent to the provision

by the Company of draft proposed sailing schedules and/or proposed Slot Times and/or Half Slot Times (including identification of all Prime Slot Times and each Standby Sailing and each Vessel proposed to occupy the Department's Linkbridge during each proposed Slot Time Prime Slot Time and Half Slot Time and whether each such Vessel shall be loading or unloading Freight or Passengers and Passengers and Accompanied Vehicles or a mixture thereof) to the Department in accordance with clause 6.2.2.1 the Company desires to make any changes of substance to such proposed sailing schedules and/or any changes to any proposed Slot Time Prime Slot Time or Half Slot Time (including any Vessel previously identified in accordance with the foregoing provisions of clause 6.2.2.1 or any change from Freight to Passengers and Passengers and

Accompanied Vehicles or vice versa) then the Company shall immediately notify the Department in writing of such proposed changes and invite the Department within twenty one days (or if impracticable such lesser period as shall in all the circumstances be practicable) to notify the Company in writing of any suggestions by the Department relevant to such proposed changes and the Company shall endeavour (subject to practicability and viability) to incorporate such suggestions Provided That the Company shall not be permitted to make any change relevant to any Slot Time Prime Slot Time or Half Slot Time if the proposed change would breach clause 6.3 or conflicts or interferes with any other user or proposed user of the Department's Linkbridge of which the Company shall have received notice from the

Department in accordance with clause 8 but with reference to any Slot Time Prime Slot Time or Half Slot Time the Company shall not be required to forego any such change to any Slot Time Prime Slot Time or Half Slot Time which conflicts or interferes with any other user or proposed user of the Department's Linkbridge of which the Company shall have received notice from the Department in accordance with clause 8 but does not breach clause 6.3 if the Company is able to make available the Victoria Linkspan (for the same consideration (if any) or less than the Department would have charged the appropriate third party for the use of the Department's Linkbridge) for use by such other user or proposed user for the period which coincides with the slot time or half slot time required by such user or

proposed user and the Victoria Linkspan and the berth adjacent thereto is capable of use by the vessel proposed to be used by such user or proposed user but if thereafter the Victoria Linkspan ceases to be available then the Company shall not be entitled to use the Department's Linkbridge for the appropriate Slot Time Prime Slot Time or Half Slot Time

6.2.2.3.1 notwithstanding the provisions of clauses 6.2.2.1 or 6.2.2.2 the Company shall be required to alter its proposed sailing schedules and/or any Slot Time or Prime Slot Time or Half Slot Time if the Department notifies the Company in writing within the appropriate periods that it requires one or more changes by reason of harbour operational or management requirements

6.2.3.1 Subject to compliance by the Company with the provisions of clause 6.2.1 and 6.2.2 and subject to clause 6.4 and to

Weather conditions the Company shall not in any year reduce its sailings below the published scheduled sailings for that year or any part thereof so as to cause the Company or likely to cause the Company to be in breach of any of its obligations under clause 3.2 to 3.8 (inclusive) and clause 3.10 for that year PROVIDED THAT if at any time in any year the Company desires to include additional scheduled sailings then the Company shall ensure that the Company does not breach its obligations under clause 3.12 or breach the provisions of clause 6.3 or otherwise conflict or interfere with any other user or proposed user (of which the Company shall have received notice from the Department in accordance with the provisions of clause 8) of the Department's Linkbridge and subject thereto shall give to the Department not less than fourteen days prior

written notice or if impracticable so to do such notice as is reasonable in the circumstances of any such additional scheduled sailing and the proposed Slot Time or Half Slot Time and also identifying the Vessel proposed to berth at the Department's Linkbridge during such Slot Time or Half Slot Time and whether such Vessel shall be loading and/or unloading Passengers and Passengers and Accompanied Vehicles and/or Freight or a mixture thereof but the Department may refuse any such proposed Slot Time or Half Slot Time of any such additional sailing if the same conflicts with any harbour operational or management requirements or breaches clause 6.3 or conflicts or interferes with any other user or proposed user of the Department's Linkbridge of which the Company shall have received notice from the Department in

accordance with clause 8 but the Company shall be permitted to use such Slot Time or Half Slot Time if the same does not conflict with any harbour operational or management requirements nor breaches clause 6.3 if the Company is able to make available the Victoria Linkspan (for the same consideration (if any) or less than the Department would have charged the appropriate third party for use of the Department's Linkbridge) for use by such other user or proposed user for the period which coincides with the slot time or half slot time required by such user or proposed user and the Victoria Linkspan and the berth adjacent thereto is capable of use by the vessel proposed to be used by such user or proposed user but if thereafter the Victoria Linkspan ceases to be available then the Company shall not be entitled to

use the Department's Linkbridge
for the appropriate Slot Time or
Half Slot Time and

6.2.3.2 Subject to compliance by the Company
with the provisions of clause 6.2.1
6.2.2 and 6.2.3.1 and subject to
Weather conditions the Company shall
not in any year change any Slot Time
Prime Slot Time or Half Slot Time
(including any Vessel previously
identified to the Department in
accordance with the provisions of
clause 6.2.2 or 6.2.3.1 or the use of
such Vessel during such Slot Time
Prime Slot Time or Half Slot Time) or
otherwise use the Department's
Linkbridge other than during any Slot
Time Prime Slot Time or Half Slot
Time determined in accordance with
clause 6.2.2 or 6.2.3.1 or change any
Standby Sailing designated as such
under clause 6.2.2.1 Provided That:-

6.2.3.2.1 if the Company merely desires to
change the Vessel so identified
for another Vessel then the
Company shall be required to
give not less than twenty four
hours prior notice to the

Department of the identity of
the other Vessel and
6.2.3.2.2 if the Company desires to change
the use of the Vessel from
Freight to Passengers or
Passengers and Accompanied
Vehicles or vice versa whether
for loading and unloading or
either then the Company shall be
required to give to the
Department not less than forty
eight hours prior notice of such
proposed change and

6.2.3.2.3 if the Company desires to change
any Standby Sailing designated
under clause 6.2.2.1 then
subject to compliance by the
Company with its obligations
under clause 3.2 to 3.8
(inclusive) and 3.10 the Company
shall be entitled to designate
any other scheduled sailing in
substitution for a designated
Standby Sailing by giving to the
Department not less than twenty
four hours prior notice

6.3 Notwithstanding any other provision
contained in this clause 6:-

6.3.1 the Company shall not be entitled under clause 6.2.2 to seek or request to change any Slot Time or Half Slot Time other than for or during the then next ensuing year or twelve month period referred to in clause 6.2.2.1 PROVIDED THAT:-

6.3.1.1 such restriction shall not apply with reference to any Prime Slot Time and

6.3.1.2 such restriction shall not apply if the Company requires any specified Slot Time or Half Slot Time to enable the Company to comply with any of its obligations under clause 3.2 to 3.8 (inclusive) and:-

6.3.1.2.1 the Company specifies in writing to the Department the appropriate obligation and

6.3.1.2.2 the Company satisfies the Department that the Company requires such Slot Time or Half Slot Time to enable the Company to complete one part of the Return Service relevant to such obligation and

6.3.1.2.3 the Company has contracted with

the appropriate port outside the Isle of Man to use a slot time or half slot time or the equivalent thereof to enable the Company to comply with such obligation as is referred to in clause 6.3.1.2.1 and such slot time or half slot time or the equivalent thereof cannot be changed and

6.3.1.2.4 the Victoria Linkspan is not available (the Company having used its reasonable endeavours to make the same available) for use during the Slot Time or Half Slot Time sought by the Company from the Department

BUT if such restriction shall not apply in accordance with the provisions of this clause 6.3.1.2 then the period of non-application shall be limited to the period of the contract referred to in clause 6.3.1.2.3

6.3.2 The Company shall not be entitled to seek any additional Slot Time or Half Slot Time then proposed to be used for any published scheduled

sailing other than during the current year or more than six months prior to the date of any such additional sailing

6.3.3 In respect of each day during the subsistence of this Agreement between 06.00 hours and 20.00 hours (inclusive) the Company shall ensure that there is a consecutive period of not less than four hours (or with the prior agreement of the Department (which if the Department shall not agree shall not be subject to arbitration under clause 17) not less than two two hour periods) during which no Slot Time or Prime Slot Time (or with the prior agreement as aforesaid of the Department two Half Slot Times) shall be sought by the Company and during which no Vessel shall berth at the Department's Linkbridge (unless authorised by the Chief Harbour Master or Harbour Master of Douglas Harbour (or any person or persons for the time being performing similar functions to the Chief Harbour Master or Harbour Master of Douglas)) and the

Department's Linkbridge shall not be used for the Specified Purposes

6.4 Subject to clause 6.3 if under clause 6.2.2.1 the Company with good and substantial reason proposes for the then next ensuing year commencing on the immediately next following January or such other twelve month period as the Company shall notify in writing to the Department to use a Slot Time or Half Slot Time for the purposes of performing any of its obligations under clause 3.2 to 3.8 (inclusive) and clause 3.10 and such Slot Time or Half Slot Time shall interfere with any other user or proposed user of the Department's Linkbridge of which the Company shall have received notice from the Department in accordance with clause 8 or the Company cannot use the proposed Slot Time Prime Slot Time or Half Slot Time by virtue of notice given by the Department under clause 6.2.2.3.1 and

6.4.1 the Company cannot reasonably be expected to change such Slot Time or Half Slot Time and

6.4.2 the Company is not able to use any other harbour facility (whether provided by the Department or owned or leased by or otherwise available to the Company) and

6.4.3 the Company (upon being requested so to do by the Department and upon being offered by the Department the appropriate Rebated Sum) does not unreasonably refuse to permit any harbour facility then owned leased occupied or able to be used by the Company to be used by such third party user and

6.4.4 the Department notifies the Company in writing that having considered all matters the Department refuses the Company the right to use the appropriate Slot Time or Half Slot Time

then but only then if such Slot Time or Half Slot Time shall be required to be used by the Company as part of an obligatory Return Service under clause 3.2 to 3.8 (inclusive) the Company shall be entitled not to undertake such Return Service and shall not be deemed to be thereby in breach of this Agreement

6.5 The provisions of this clause shall not be deemed to inhibit or restrict the ability of the Chief Harbour Master or Harbour Master of Douglas Harbour (or any person or persons for the time being performing similar functions to the Chief Harbour Master or the Harbour Master

of Douglas Harbour) to issue any directions orders or other thing from time to time deemed appropriate in connection with the operation or management of Douglas Harbour or the approaches thereto

DEPARTMENT'S OBLIGATIONS

7. In consideration of the covenants obligations and undertakings on the part of the Company herein contained but subject to the Company not at any time being in breach of any covenants conditions or obligations on its part herein contained the Department covenants and undertakes:

7.1.1 Unless the Department shall be prevented by any matter beyond its actual control on or before the 31st day of December 1995 to instal the Department's Linkbridge on the north side of King Edward VIII Pier Douglas and upon the Department's Linkbridge being so installed and operational to give notice to the Company of the commencement of the Licensed Period PROVIDED THAT the Department will use its best endeavours to give to the Company not less than six weeks prior notice of the date scheduled for the completion of the installation of the

- Department's Linkbridge and
- 7.1.2 Simultaneous with such notice or as soon thereafter as reasonably practicable to serve upon the Company a certificate signed by the Department's External Auditors as to the amount of the Capital Monies
- 7.2 To maintain (fair wear and tear excepted) the structure of the Department's Linkbridge
- 7.3 To maintain a navigational approach channel to the Department's Linkbridge and an associated manoeuvring area both of 6 metres depth below Douglas Harbour datum and to maintain immediately in front of the Department's Linkbridge a berth of 6.5 metres depth below Douglas Harbour datum
- 7.4 Subject to the provisions of clause 7.6 to ensure at all times that the Department's Linkbridge is adequately manned (so far as it is within the actual control of the Department) to enable the same to be used by the Company for the Specified Purposes in connection with that part of the Company's published scheduled sailings which require usage of the Department's Linkbridge for the Slot Time(s) and Half Slot Time(s) published for the appropriate

year subsequent to compliance by the Company with the provisions of clause 6.2 and any additional sailings of which the Department has had prior written notice (including Slot Times and Half Slot Times) from the Company in accordance and compliance with clause 6.2 and which requires usage by the Company of the Department's Linkbridge including those relevant to the carrying out by the Company of its obligations in accordance with the provisions of clauses 3.2 to 3.8 (inclusive) and 3.10 PROVIDED ALWAYS that the reference herein to the Company's published scheduled sailings any additional sailings and to Slot Times and Half Slot Times shall be deemed to extend to the actual arrival and departure time of such sailings if delayed (for whatever reason) beyond the scheduled times or Slot Times or Half Slot Times of which delay the Company shall have given to the Department such prior notice as is reasonably practicable so to do but this proviso shall not expressly or by implication give the Company any right to occupy the Department's Linkbridge other than for any Slot Time or Half Slot Time

then allocated to the Company

- 7.5 To give to the Company not less than two months prior written notice of any proposed increase in Harbour Dues and to consider in respect of any such proposal any written representations made by the Company to the Department within fourteen days from receipt by the Company of any such notice before finally determining any proposed increase in Harbour Dues
- 7.6 That if at any time for the purposes of maintenance of the Department's Linkbridge or other justifiable reason the Department shall consider it necessary to suspend the Company's rights to use the Department's Linkbridge or shall consider it necessary to remove the Department's Linkbridge then:-
- 7.6.1 if the Department shall determine to leave the Department's Linkbridge in situ but that it is necessary to suspend the use of the Department's Linkbridge the Department shall consult (save in case of emergency) with the Company with a view to agreeing with the Company the most convenient time of such suspension but in the event of the Company and

the Department failing to agree within seven days of commencement of such consultation then the Department may give not less than fourteen days written notice to the Company of the date of the proposed suspension but shall restrict the period of the suspension to such period as is reasonably practicable in all the circumstances and exercising due diligence or

7.6.2 if the Department shall determine that it is necessary to remove the Department's Linkbridge then the Department (save in case of emergency) shall consult with the Company with a view to agreeing with the Company the most convenient time for such removal but in the event of the Company and the Department failing to agree within seven days from commencement of such consultation then the Department may give to the Company not less than one months written notice of the date upon which the Department's Linkbridge shall be removed and upon expiration of such notice (or without

notice in case of emergency) remove the Department's Linkbridge and shall return the same as soon as reasonably practicable in all the circumstances and exercising due diligence

7.7 To insure the Department's Linkbridge unless such insurance shall be vitiated or limited in any way by any act omission or default of the Company its officers servants agents invitees and/or licencee's or any of them against the Insured risks

7.8 That if subsequent to the commencement of the Licensed Period

7.8.1.1 The Department shall consent to the installation of any Linkbridge within any harbour or port in the Isle of Man capable of use by Conventional Vessels or Fast Craft similar to those for the time being used by the Company in discharge of its obligations under clause 3 and the Department shall be satisfied that such Linkbridge shall be installed within any such harbour or port or

7.8.1.2 If the Department shall contract to acquire or construct a Linkbridge in any such harbour or port

Then within one month of the Department being so satisfied as aforesaid or entering into such contract whichever shall be appropriate but not less than six months prior to the installation of any such Linkbridge in any such port or harbour the Department shall give written notice thereof to the Company

7.8.2 If the Department agrees that any harbour facility constructed after the commencement of the Licensed Period by the Department or permitted by the Department after the commencement of the Licensed Period to be sited within any harbour (which facility but for the proviso to the definition of the word "Linkbridge" in clause 1.1 would for the purposes of this Agreement be deemed to be a Linkbridge) may be used without restriction as imposed by such proviso then the Department shall not agree to such unrestricted use before giving to the Company not less than six months prior written notice of such proposed unrestricted use

7.9.1 If the Department shall permit any third party to use the Department's Linkbridge in accordance with the provisions of clause 8.2 or 8.3 then subject to the proviso hereto the Department shall pay to the Company or (at the option of the Company) credit against any payment then or in the future due from the Company to the Department in respect of each such use the appropriate Rebated Sum Provided that if during any day (being for the avoidance of doubt the period from 00.01 hours to next following 24.00 hours) the Department's Linkbridge shall be used more than once by any such third party or third parties then the Department shall not be required to pay to or credit the Company with any sum in excess of the appropriate single Rebated Sum

7.9.2 If the Company at the request of the Department shall permit any third party to use any harbour facility owned leased or occupied by the Company as contemplated in clause 6.4 then subject to the proviso hereto

the Department shall pay to the Company or (at the option of the Company) credit against any payment then or in the future due from the Company to the Department in respect of each such use the appropriate Rebated Sum provided that if during any day (being for the avoidance of doubt the period from 00.01 hours to next following 24.00 hours) more than one such third party shall use any such harbour facility then the Department shall not be required to pay to or credit the Company with any sum in excess of the appropriate single Rebated Sum

7.10

7.10.1 If during a Slot Time Prime Slot Time or Half Slot Time there shall not be available a foot passenger gangway for use by foot passengers and the Company requests the Department so to do the Department shall permit such foot passengers to use the Department's Linkbridge for the purpose of but only for the purpose of boarding or disembarking from the appropriate Vessel at appropriate

times

7.10.2 if but only if due to exceptional circumstances beyond the control of the Company (which shall not include without prejudice to the generality of the foregoing any wilful default or neglect on the part of the Company) there is not available a crew gangway affording crew access to and egress from a Vessel during a Slot Time Prime Slot Time or Half Slot Time then the Department upon being requested so to do by the Company shall permit subject to strict compliance by the Company (inter alia) with the covenants on the Company's part contained in clause 3.38.3 the crew of the appropriate Vessel to use the Department's Linkbridge for the purpose of access to or egress from such Vessel during such Slot Time Prime Slot Time or Half Slot Time or such other times as the appropriate Vessel shall be berthed at the Department's Linkbridge and the Department's Linkbridge shall be manned by Department personnel

7.11 If the Company desires to use a port which the Company considers meets the appropriate criteria specified in clause 3.9.1 but having used all reasonable endeavours the Company experiences difficulties in commencing or progressing negotiations with appropriate persons having control of such port then the Department upon being requested so to do (but without the Department being liable to incur any expense on its part and subject to the Department being satisfied that such port will meet the appropriate criteria specified in clause 3.9.1) will afford to the Company such assistance (if any) as the Department considers appropriate

8. **ALTERNATE USERS**

8.1 If the Company shall be in breach of any of its obligations under clauses 3.2 to 3.8 (inclusive) or 3.10 or shall be prevented by Force Majeure or Industrial action from complying with any of its obligations under clause 3.2 to 3.8 (inclusive) or 3.10 or during the period of any suspension of this Agreement under clause 18.5.2 then on each such occasion the Department shall be entitled in the best interests of the Island its inhabitants and visitors (having consulted

with the Company) for such period as the Department shall deem necessary in the circumstances (the Department using its reasonable endeavours to limit such period to the period of the breach or suspension (as appropriate) and one month thereafter) to permit any other person to use the Department's Linkbridge for the provision of such substituted Return Services or other services between the Isle of Man and elsewhere as the Department shall consider appropriate PROVIDED THAT

8.1.1 during any period that the Department so permits any other person to use the Department's Linkbridge in accordance with the provisions of this sub-clause the Company shall not be obligated to provide any of the services under clauses 3.2 to 3.8 (inclusive) or 3.10 which are so provided by such other person but for the avoidance of doubt this clause 8.1.1 shall not be construed so as to be deemed to be cessation by the Company of any breach of its obligations under clauses 3.2 to 3.8 (inclusive) or 3.10 and

8.1.2 not later than seven days from the

date of receipt by the Department of notice by the Company that the Force Majeure or Industrial action has ceased or not later than seven days following cessation of any breach of any of the Company's obligations under clause 3.2 to 3.8 (inclusive) or 3.10 or cessation of the suspension of this Agreement under clause 18.5.2.2 the Company shall be entitled to resume usage of the Department's Linkbridge at the Slot Times Prime Slot Times and Half Slot Times previously allocated to the Company relevant to its then current published scheduled sailings relating to services or any part thereof under clause 3.2 to 3.8 (inclusive) and 3.10 and

8.1.3 if the Department has entered into any agreement or arrangement with any third party as contemplated by clause 8.1 for use by the third party of the Department's Linkbridge and such third party is by virtue of any arrangement or agreement entitled to continue to use the Department's Linkbridge subsequent to the

expiration of seven days from (a) the receipt of any notice given by the Company under clause 8.1.2 or (b) cessation of any breach of any of the Company's obligations under clause 3.2 to 3.8 (inclusive) or 3.10 or (c) cessation of the suspension of this Agreement under clause 18.5.2.2

then:-

8.1.3.1 if by virtue of any such arrangement or agreement the Department has the right to terminate the same the Department shall do so when called upon by the Company PROVIDED THAT the Company shall pay to the Department forthwith on demand being made by the Department all monies (including but not limited to all fees costs charges penalties damages and expenses) required to be paid by the Department to such third party relevant to such termination or

8.1.3.2 if any such arrangement or agreement is capable of assignment by the Department then subject to the Department receiving from the Company all costs and expenses reasonably

incurred or to be incurred by the Department in connection with any such proposed assignment and the Company entering into such form of indemnity as the Department shall reasonably require and the Department obtaining all necessary consents to such assignment the Department shall assign such arrangement or agreement to the Company if and when called upon by the Company so to do

8.2 Notwithstanding the provisions of clause 8.1 the Department (subject to the provisions of clause 8.4) on giving prior written notice as soon as practicable (but in any event not less than seven days prior notice unless circumstances do not permit) to the Company (which notice may refer to one or more services more particularly referred to in this sub-clause) may permit:-

8.2:1 In connection with a passenger and/or Passenger and Accompanied Vehicle service operated by any person between two ports outside the Isle of Man permit any vessel (conventional or otherwise) owned leased or operated by any such person to use

the Department's Linkbridge en route but as part of the journey subject to such use not being granted in the aggregate more than twenty-four times in any one year and not exceeding twice in any week

8.2:2 Any person providing a Passenger and Accompanied Vehicle Return Service (and for the purposes of this clause 8.2.2 "Vessel" in the definition of "Passenger and Accompanied Vehicle Return Service" shall be deemed to be a vessel (conventional or otherwise) for the time being owned leased chartered or operated by or in conjunction with such person) to use at any time the Department's Linkbridge in connection with such service provided that any such service shall be from or to a port not situate in or between Holyhead in Wales and the most northerly port in North West England or subject to clause 8.2.3 any ports situate on the East Coast of the Republic of Ireland or Northern Ireland

8.2.3 Notwithstanding clause 8.2.2 any person providing a Passenger and

Accompanied Vehicle Return Service from or to any port situate on the East Coast of the Republic of Ireland or Northern Ireland to use the Department's Linkbridge at any time which does not coincide with any scheduled Passenger and Accompanied Vehicle Return Service of the Company to the East Coast of the Republic of Ireland or Northern Ireland (as appropriate) and other than during the Summer period Shoulder periods and T.T. period

- 8.2.4 Any vessel (conventional or otherwise) owned leased chartered or operated by any person providing carriage by sea of passengers Accompanied Vehicles and Freight or passengers or Accompanied Vehicles or Freight or a mixture thereof to and/or from any off-shore structure or platform situate in the Irish Sea to use at any time the Department's Linkbridge for the purposes of loading and/or unloading embarkation and/or disembarkation of passengers Accompanied Vehicles and/or Freight
- 8.2.5 Without prejudice to clause 8.2.2 any

vessel (conventional or otherwise)
owned leased chartered or operated by
any person providing carriage by sea
of passengers Accompanied Vehicles
and Freight or passengers or
Accompanied Vehicles or Freight or a
mixture thereof to and/or from any
port or place not situate within the
British Isles to use at any time the
Department's Linkbridge for the
purposes of loading and/or unloading
embarkation and/or disembarkation of
passengers Accompanied Vehicles
and/or Freight

8.3 Notwithstanding the provisions of clause
8.2 the Department upon giving not less
than twenty-four hours prior written
notice to the Company may permit any
person to use the Department's Linkbridge
in connection with any specialist or
one-off arrivals or departures provided
that such uses shall not exceed twelve in
any one year

8.4

8.4.1 If the Department shall desire to
permit any person to use the
Department's Linkbridge in accordance
with the provisions of clause 8.2 or

8.3 then the Department shall if there is reasonable time so to do consult with the Company as to such proposed use but:-

8.4.1.1 the Department shall not be required to identify such person to the Company or to provide any other information to the Company save and except the proposed date(s) and time(s) during which such person requires to use the Department's Linkbridge and

8.4.1.2 the requirement (if practicable) of the Department to consult with the Company shall merely be for the purposes of enabling the Department to ascertain whether the Company would wish to use the Department's Linkbridge at the same time or during a period which would conflict with such other persons proposed use and shall not impose any duty or obligation upon the Department to refuse such other person's request or relieve the Company of the performance of any of its obligations under this Agreement

8.4.2 Any person permitted by the

Department in accordance with the provisions of clause 8.2 and 8.3 to use the Department's Linkbridge shall use the same at such times which do not interfere with any Slot Time Prime Slot Time or Half Slot Time then allocated to the Company in connection with the Company's scheduled sailings for the then current year relevant to the performance by the Company of its obligations under clauses 3.2 to 3.8 (inclusive) and 3.10 or do not interfere with any Slot Times allocated to the Company relevant to any additional sailing of which the Department has been given notice by the Company (a) prior to the Department consulting with the Company in accordance with clause 8.4.1 or (b) if consultation shall be impracticable by reason of constraint of time prior to notification by the Department to the Company of such other persons proposed use of the Department's Linkbridge under clause 8.2 or 8.3

8.5 The Department shall not permit any person

(other than the Company) to use the
Department's Linkbridge:-

- 8.5.1 for any period which coincides with
any Prime Slot Time allocated to the
Company for the then current year
or
- 8.5.2 for any period in any subsequent year
during the subsistence of this
Agreement which coincides with any
Prime Slot Time then allocated to the
Company for the then current year or
- 8.5.3 for any period whether in the then
current year or any subsequent year
which coincides with a Slot Time or
Half Slot Time allocated to the
Company and to which Slot Time or
Half Slot Time the provisions of
clause 6.3.1.2 apply but the
restriction upon the Department under
this clause 8.5.3 shall only apply
during the appropriate contract
period more particularly referred to
in clause 6.3.1.2.3
- 8.6 If any person desires to use the
Department's Linkbridge in accordance with
the provisions of clause 8.2 or 8.3 during
any period which coincides with a Slot
Time or Half Slot Time then allocated to

the Company then if the Victoria Linkspan is available for use by the Vessel which is proposed by the Company to use such Slot Time or Half Slot Time then the Company upon being requested so to do by the Department shall use its reasonable endeavours to vacate such Slot Time or Half Slot Time to enable such other person to use the same

9. **SUSPENSION OF PRESCRIBED CHARGES**

9.1 If and whenever during the Licensed Period the Department's Linkbridge or any part thereof is damaged or destroyed so that the Department's Linkbridge or any part thereof is unfit for use and:-

9.1.1 if such damage or destruction is covered by any of the Insured risks provided payment of the insurance monies is not refused in whole or in part by reason of any act omission or default of the Company or any of its officers servants agents licensees and/or invitees or

9.1.2 if such destruction or damage is not caused by any act omission or default of the Company or any of its officers servants agents licensees and/or invitees

then the provisions of clause 9.2 shall have effect

9.2 When the circumstances contemplated in clause 9.1 arise the Prescribed Charges or a fair proportion thereof according to the nature and extent of the damage sustained shall cease to be payable until the Department's Linkbridge or the affected part shall have been rebuilt or reinstated so that the Department's Linkbridge or the affected part are made fit for the Specified Purposes or until the expiration of three years from the date of such destruction or damage whichever period is the shorter the amount of such proportion and the period during which the Prescribed Charges or a proportion thereof shall cease to be payable to be determined in case of any dispute between the Department and the Company by arbitration in accordance with the provisions of clause 17 hereof

10. RE-INSTATEMENT AND TERMINATION IF PREVENTED

10.1 If and whenever during the Licensed

Period:-

10.1:1 the Department's Linkbridge or any part thereof is damaged or destroyed

and

10.1.2 any such damage or destruction is not caused by any act omission or default of the Company or any of its officers servants agents licensees and/or invitees or

10.1.3 if any such damage or destruction is caused by any of the Insured risks the payment of insurance money is not refused in whole or in part by reason of any act omission or default by the Company or any of its officers servants agents licensees and/or invitees

then the Department shall use its best endeavours to obtain all permissions and consents that may be required to enable the Department to rebuild and reinstate the Department's Linkbridge (such permissions and consents being in this clause referred to as "the Permissions") and subject to the provisions of sub-clauses 10.2 and 10.3 the Department shall as soon as the Permissions have been obtained or immediately where no Permissions are required rebuild or reinstate the Department's Linkbridge in accordance with the Permissions (if any)

and shall apply all money (if any) received in respect of such insurance (except sums in respect of Loss of Prescribed Charges) in rebuilding or reinstating the Department's Linkbridge or any part thereof so destroyed or damaged

10.2 For the purposes of this clause the expression "Supervening Events" means:

- 10.2:1 The Department has failed despite using its best endeavours to obtain the Permissions or any of them or
- 10.2:2 Any of the Permissions have been granted subject to a lawful condition with which in all the circumstances it would be unreasonable to expect the Department to comply or
- 10.2:3 Some defect deficiency or obstruction in the site upon which the rebuilding or reinstatement is to take place would mean that the same could only be undertaken at a cost that would be unreasonable in all the circumstances or
- 10.2:4 The Department is unable to obtain access to the site for the purposes of rebuilding or reinstating or
- 10.2:5 The rebuilding or reinstatement is

- prevented by Force Majeure or
Industrial action or
- 10.2:6 Any other circumstance beyond the
control of the Department
- 10.3 The Department shall not be liable to
rebuild or reinstate the Department's
Linkbridge if and so long as such
rebuilding or reinstatement is prevented
by Supervening Events
- 10.4 If upon the expiry of a period of
eighteen months commencing on the date of
the damage or destruction of the
Department's Linkbridge the same shall
have not been rebuilt or reinstated so as
to be fit for the Specified Purposes
either party may by notice served at any
time within six months of the expiry of
such period invoke the provisions of
clause 10.5
- 10.5 Upon service of a notice in accordance
with clause 10.4
- 10.5:1 The Licensed Period will absolutely
cease but without prejudice to any
rights or remedies that may have
accrued to either party against the
other
- 10.5:2 All money received in respect of the
insurance effected by the Department

in pursuance of its obligations
hereunder shall belong to the
Department

FURTHER SUSPENSION OF PRESCRIBED CHARGES

11. If the Department in accordance with the provisions of clause 7.6 shall either suspend the use by the Company of the Department's Linkbridge or remove the Department's Linkbridge then during such period of suspension or removal a fair proportion of the Prescribed Charges shall cease to be payable by the Company and in default of agreement as to the proportion of the Prescribed Charges which shall so cease to be payable any dispute between the Department and the Company shall be determined by arbitration in accordance with the provisions of clause 17

12. OPTION TO RENEW

12.1 If the Department desires to extend the Licensed Period for the Further Period then the Department shall give to the Company not less than twenty four months prior to the expiration of the Initial Period written notice of such desire and

PROVIDED:-

12.1.1 that the Department and the Company up to and including the date of expiry of the Initial Period shall

have performed and observed the obligations covenants and conditions on their respective part herein contained and

12.1.2 that prior to the expiration of the period of twelve months from the date of such written notice the Department shall have agreed (there being no obligation upon the Department to do so and if the Department shall refuse to agree or the Department and the Company fail to agree then such refusal or failure shall not be subject to arbitration under clause 17) to grant to the Company a Licence to site or continue to site the Victoria Linkspan immediately adjacent to the south side of the Victoria Pier in Douglas Harbour such Licence:-

12.1.2.1 to commence on the commencement date of the Further Period and to be for a period (subject to any provisions relevant to prior determination) equal to the Further Period and

12.1.2.2 to be subject to the payment by the Company to the Department of such

annual licence fee (with or without reviews) such other fees and charges and such other terms and conditions as the Department shall require and
12.1.2.3 to be conditional upon the Company up to and including the date of expiry of the Initial Period performing and observing the obligations covenants and conditions on the part of the Company herein contained then this Agreement shall continue in full force and effect during the Further Period PROVIDED THAT at the expiration of the Further Period the Department shall not be entitled to renew this Agreement .

12.2 If the Company desires to extend the Licensed Period for the Further Period then the Company shall give to the Department not less than twenty four months prior to the expiration of the Initial Period written notice of such desire and PROVIDED:-

12.2.1 the Company shall up to and including the date of expiry of the Initial Period have paid all monies due and payable by the Company to the Department in

accordance with the terms of
this Agreement and have
performed and observed the
covenants conditions and
obligations on its part
contained in this Agreement
and

12.2.2 that prior to the expiration of
the period of twelve months
from the date of such written
notice the Department shall
have agreed (there being no
obligation upon the Department
to do so and if the Department
shall refuse to agree or the
Department and the Company fail
to agree then such refusal or
failure shall not be subject to
arbitration under clause 17) to
grant to the Company a Licence
to site or continue to site the
Victoria Linkspan immediately
adjacent to the south side of
the Victoria Pier in Douglas
Harbour such Licence:-

12.2.2.1 to commence on the
Commencement Date of
the Further Period and

to be for a period
(subject to any
provisions
relevant to prior
determination) equal to
the Further Period and
to be subject to the
payment by the Company
to the Department of
such annual licence fee
(with or without
reviews) such other
fees and charges and
such other terms and
conditions as the
Department shall
require and

12.2.2.2

12.2.2.3

to be conditional upon
the Company up to and
including the date of
expiry of the Initial
Period performing and
observing the
obligations covenants
and conditions on the
part of the Company
herein contained

then this Agreement shall continue in full

force and effect during the Further Period
PROVIDED THAT at the expiration of the
Further Period the Company shall not be
entitled to renew this Agreement

**COMPANY'S RIGHT TO DETERMINE IF NOTICE BY DEPARTMENT
UNDER CLAUSE 7.8**

13. If the Department shall serve notice upon the
Company in accordance with the provisions of clause
7.8:-

13.1.1 the Company may at any time within
twelve months from the receipt of any
such notice give to the Department
not less than one months prior
written notice of termination of this
Agreement or

13.1.2 the Company may at any time from the
expiration of twelve months but
before the expiration of twenty four
months from the receipt of any such
notice give not less than three
months prior written notice to the
Department of termination of this
Agreement or

13.1.3 the Company may at any time after the
expiration of twenty four months from
the receipt of any such notice give
not less than six months prior
written notice to the Department of

termination of this Agreement

13.2 And at the expiration of any notice given under and in pursuance of clause 13.1.1 13.1.2 or 13.1.3 this Agreement shall terminate but without prejudice to any rights or remedies that may have accrued to either party against the other

TERMINATION - GENERAL PROVISIONS

14. Notwithstanding the provisions of clauses 10 13 15 and 18.5 hereof:

14.1 This Agreement may be terminated at any time by mutual agreement in writing between the Department and the Company or

14.2 If at any time throughout the Licensed Period the Company shall in any financial Year (being a period of not less than twelve months) sustain a Loss (equal to or exceeding 2% of the Company turnover for such Financial Year or SIX HUNDRED THOUSAND POUNDS (duly adjusted by reference to the Manx Retail Price Index as at December 1994) whichever is the greater and such Loss is not due to any Force Majeure Industrial action one or more events which are unlikely to be repeated or by any change in the Company's policy relevant to the writing down of any

capital investment and which Loss is an actual Loss) in relation to the operation of the Return Services and any additional sailings to or from the Isle of Man and the Company shall project a further similar Loss relating to the Return Services and any proposed additional sailings to or from the Isle of Man in the then current Financial Year (being a period of not less than twelve months) and the Company desires to invoke the provisions of this clause 14.2 then:-

- 14.2.1 the Company shall deliver to the Department a certificate duly signed by the Company's External Auditors certifying such Loss and the Company shall also deliver a written statement signed by a duly authorised officer of the Company setting out the Company's detailed projections in support of the Company's anticipated further Loss for the then current Financial Year
- 14.2.2 the Company covenants with the Department that a certificate delivered in accordance with the provisions of clause 14.2.1 shall be materially true and accurate in all

material respects within the context
of the Company's accounting policies
14.2.3 if the Company shall deliver to the
Department a certificate and written
statement in accordance with the
provisions of clause 14.2.1 the
Company shall simultaneous therewith
give to the Department not less than
twelve months written notice of
termination of this Agreement

14.2.4 subsequent to receipt of notice from
the Company to the Department under
clause 14.2.3 the Department shall be
entitled at any time thereafter to
serve a counter-notice ("the first
counter-notice") on the Company
terminating this Agreement by not
less than six months from the date of
the giving of the first
counter-notice PROVIDED THAT if
during the period of the first
counter-notice the Company shall be
in breach of any of its obligations
under this Agreement then
notwithstanding any other provisions
of this Agreement the Department
shall be entitled to serve a second
counter-notice on the Company

terminating this Agreement by not less than twenty eight days from the date of giving of such second counter-notice

14.2.5 for the purposes of this clause
14.2 "Loss" means the trading profit or loss of the Company in respect of the operation of the Return Services and any additional sailings to or from the Isle of Man less the net interest charges arising from the Company's operation of the Return Services and any additional sailings to or from the Isle of Man

14.2.6 for the purposes of this clause
"turnover" means the revenue generated by the Company in respect of the operation of the Return Services and any additional sailings to or from the Isle of Man

14.3 If pursuant to clause 3.9 the Company at any time shall select and use a port which is determined by the Arbitration Tribunal not to meet the criteria specified in clause 3.9.1.1 3.9.1.2 or 3.9.1.3.2 then the Department at any time after such determination by the Arbitration Tribunal (notwithstanding that the Company may be entitled to select another port

under clause 3.9) shall be entitled to terminate this Agreement by giving not less than 6 months written notice to that effect

- 14.4 If and whenever the Company shall fail after receipt of the appropriate invoice or demand to pay any monies due and payable by the Company to the Department in accordance with the provisions of this Agreement within the period specified or if no period be specified within twenty eight days of the same becoming due and payable (whether demanded or not) then the Department shall be entitled to terminate this Agreement upon giving to the Company not less than one month's prior written notice or
- 14.5 Without prejudice to any other provision of this Agreement in the event of a breach by the Department or the Company of any of the provisions of this Agreement the other party may serve written notice:

14.5:1 In the case of the Company being in breach of any of its obligations under clauses 3.2 to 3.8 (inclusive) or 3.10 requiring the breach to be remedied within not more than fourteen days (allowance being made for Weather conditions Force Majeure or Industrial action preventing compliance within the fourteen days)

from the giving of the notice or
14.5:2 In respect of any other breach
requiring the same to be remedied
within thirty days (allowance being
made for Weather conditions Force
Majeure or Industrial action) from
the giving of the notice

And if the recipient party shall fail to comply
with the terms of any such notice then the
other party may terminate this Agreement upon
giving not less than fourteen days prior
further written notice to the party in default
or

14.6 Without prejudice to the provisions of any
other clause of this Agreement if either party
in any period of twelve consecutive months
shall be in breach of any one or more of the
provisions of this Agreement for a continuous
or cumulative period of thirty days then the
other party may terminate this Agreement by
giving to the defaulting party not less than
six month's prior written notice PROVIDED THAT
if the defaulting party shall within twenty one
days of receipt of such notice disagree with
the same then the dispute as to whether or not
the party serving the notice shall be entitled
to terminate this Agreement in accordance with
the provisions of this sub-clause shall be

referred to arbitration in accordance with the provisions of clause 17 and pending the outcome of such arbitration this Agreement shall continue in full force and effect or

14.7 If the Company goes into liquidation either compulsory or voluntary or if a receiver or manager is appointed in respect of the whole or any part of the Company's assets or if the Company makes an assignment for the benefit of or composition with its creditors generally or threatens to do any of these things or if judgment and execution is entered against the Company (being not capable of appeal or subject to an appeal by the Company) and such judgment and execution remains unsatisfied for 21 days after the same shall be sought to be enforced then the Department may terminate this Agreement immediately upon giving written notice to the Company

FORCE MAJEURE

15. If the Company or the Department shall be prevented from performing or observing any covenant condition or obligation on its part by reason of Force Majeure or Industrial action then the Company or the Department (as appropriate) shall not be deemed to be in breach of this Agreement nor shall the Department or the Company (as appropriate) be entitled to receive damages therefor but all dates

or periods mentioned herein shall be correspondingly postponed until the Force Majeure or Industrial action shall cease Provided that:

15.1 if the period of postponement by reason of Force Majeure shall be prolonged for a period equal to or more than two months or

15.2 if the period of postponement by reason of Industrial action shall be prolonged for a period equal to or more than six months

then either party on or at any time after the appropriate period but during the continuance of the Force Majeure or Industrial action (whichever is appropriate) may give to the other written notice whereby this Agreement shall cease and determine forthwith but in any case without prejudice to any rights or remedies that may have accrued to one party against the other up to the date of termination

16. CONTINUANCE OF AGREEMENT DURING PERIOD OF NOTICE OF TERMINATION

16.1 If either party shall serve upon the other notice of termination in accordance with any of the provisions of this Agreement then both parties shall continue to observe and perform the covenants conditions and obligations on

their respective part up to and including the date of termination of this Agreement.

16.2 Notwithstanding any other provision of this Agreement it is hereby agreed that the obligations of the Company to pay any money to the Department in respect of any period or periods up to and including the date of termination and all relevant clauses and schedules in connection therewith shall remain in full force and effect notwithstanding termination of this Agreement

17. ARBITRATION

17.1 Each dispute or difference between the parties in connection with this Agreement shall be referred to a separate tribunal to be established hereunder and determined by arbitration in the Isle of Man

17.2 The tribunal shall consist of three arbitrators none of whom shall be officers servants or agents of the parties and the tribunal shall be constituted as follows:

17.2.1 The claimant shall nominate an arbitrator and may by notice in writing call on the other party to

nominate an arbitrator within
fourteen days of the notice failing
which such arbitrator shall at the
request of the claimant be appointed
by the Council of the Isle of Man Law
Society PROVIDED THAT if the Company
shall serve notice upon the
Department under clause 5.2.1 or
5.3.1 the Company shall be entitled
(notwithstanding that any matter or
matters referred to in any such
notice shall not proceed to
arbitration) simultaneously to notify
in writing the Department of the
identity of the arbitrator nominated
by the Company if any matter or
matters the subject of any such
notice proceeds to arbitration under
clause 5.2 or 5.3 (as applicable) and
the Department shall within twenty
eight days of such latter notice (or
such longer period as the Company and
the Department shall agree) nominate
an arbitrator failing which such
arbitrator shall at the request of
the Company be appointed by the
Council of the Isle of Man Law
Society

- 17.2.2 The third arbitrator who shall serve as President of the tribunal shall be appointed by agreement between the two arbitrators appointed under clause 17.2.1 above or, in default of agreement within fourteen days of the appointment of the second arbitrator on the nomination of His Excellency the Lieutenant Governor of the Isle of Man at the written request of either or both parties
- 17.2.3 Should a vacancy arise because any arbitrator dies resigns refuses to act or in the opinion of his fellow arbitrators becomes incapable of performing his function the vacancy shall be filled by the method by which that arbitrator was originally appointed
- 17.3 The procedure to be followed shall be agreed by the parties or, in default of agreement, determined by the tribunal
- 17.4 In the event of default by either party in respect of any procedural order made by the tribunal, the tribunal shall have power to proceed with the arbitration in the absence of that party and to deliver its award

17.5 In respect of any arbitration arising out of a disagreement under clause 5 the tribunal without prejudice or in any way limiting the tribunal's power to consider any matter:

17.5.1 shall allow a reasonable level of profit for the Company in respect of the compliance by the Company of its obligations under clause 3.2 to 3.8 (inclusive) and 3.10

17.5.2 shall allow the Company to recover losses of revenue resulting from falls in traffic carried on the Return Services for the current year in comparison with the traffic carried on Return Services by the Company for the twelve month period to 1st January 1994

17.5.3 shall allow for changes by way of increases in the Company's costs over which the Company has no control in relation to the provision of Return Services or any increase arising from major investment or other financial commitment by the Company leading to improvement in Return Services

Financial commitment for the purposes of this clause

17.5.3 means the capitalised value of payments related to the charter lease rental or general use of an asset or resource whose purpose is to improve Return Services but the nature of whose financing is such as not to give rise to inclusion in the Company's balance sheet as an asset

17.5.4 shall not have regard to any published passenger fares or freight charges prior to those fares or charges published for the year 1995

17.6 Any award or procedural decision or determination of the tribunal shall if necessary be made by a majority vote. In the event of no majority vote being formed, the President or Chairman of the tribunal shall make an award or procedural decision or other determination as if he were sole arbitrator. The award or procedural decision or determination of the Tribunal shall be final and binding on the parties hereto

17.7 In the absence of any determination by the tribunal the fees of the tribunal shall be paid jointly by the Department and the Company

MISCELLANEOUS

18.1 Rescission of Agreement

If for reasons beyond its actual control the Department shall fail to serve notice upon the Company in accordance with the provisions of clause 7.1 hereof and thereby the Licensed Period shall not commence on or before the 31st day of December 1996 then this Agreement shall cease to have effect and neither party shall be entitled to receive damages therefor

18.2 Interest

In the event that the Company fails to pay on invoice (with or without demand) or written demand on the due date any monies payable hereunder to the Department interest shall be payable (as well after as before judgment) thereon by the Company to the Department from the date of default up until the date of actual payment at the rate of 2% per centum per annum above the base rate from time to time of Isle of Man Bank Limited such interest to be calculated on a daily basis

18.3 Time of the Essence

Time shall be deemed to be of the essence of this Agreement

18.4 Entire Agreement

This Agreement shall constitute the entire Agreement and understanding between the Department and the Company with respect to all matters which are referred to and shall supersede any previous agreement between the Department and the Company in relation to the matters referred to in this Agreement

18.5 Illegality

18.5.1 If any term or provision in this Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law that term or provision or part shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected PROVIDED THAT if the illegality or unenforceability of such term or provision or part of this Agreement in the opinion of either party negates or is likely to negate the Central Purpose then either party may give to the other written notice that it seeks to invoke the provisions of this clause 18.5 and

seeks to terminate this Agreement at the expiration of three months from the date of service of such notice PROVIDED THAT if the recipient party shall within 21 days of receipt of such notice disagree with the same then the dispute as to whether or not the party serving the notice shall be entitled to terminate this Agreement in accordance with the provisions of this sub-clause shall be referred to arbitration in accordance with the provisions of clause 17 and subject to sub-clause 18.5.2 pending the outcome of such arbitration this Agreement shall continue in full force and effect

18.5.2 If the Company shall seek to invoke the provisions of this sub-clause 18.5 by reason that the illegality or unenforceability requires the Department to permit any third person to use the Department's Linkbridge other than in accordance with clause 8 then the Company shall serve written notice upon the Department which notice shall specifically refer to this clause 18.5.2 and shall set

forth the reasons of the Company for such invocation then:-

- 18.5.2.1 if the Department shall agree with the Company this Agreement shall terminate at the expiration of one month from the date of service of such notice or
- 18.5.2.2 if the Department shall within fourteen days of receipt of such notice disagree with the same then the dispute as to whether or not the Company shall be entitled to terminate this Agreement in accordance with the provisions of this sub-clause (with particular reference to this clause 18.5.2) shall be referred to arbitration in accordance with the provisions of clause 17 and pending the outcome of such Arbitration this Agreement shall be suspended after the expiration of one month from the service of notice by the Company under clause 18.5.2 until the matter has been determined by such arbitration and if such determination resolves that the Company is not entitled to terminate this Agreement under the provisions

of this sub-clause 18.5.2 then the period of suspension shall cease and this Agreement shall continue in full force and effect

18.5.3 For the purposes of this sub-clause:-

18.5.3.1 no term or provision or any part of this Agreement shall be deemed to be illegal or unenforceable by rule of law unless any judgment relevant thereto is final (not being capable of appeal or subject to appeal) and binding upon the Department or the Company

18.5.3.2 For the purposes of this sub-clause 18.5 "Central Purpose" means the removal or nullification of any term or provision or part of this Agreement which in the reasonable opinion of the party seeking to invoke the provisions of this sub-clause 18.5 negates the benefits to that party of entering into or continuing this Agreement

18.6 Variation of Agreement

No variations to this Agreement shall be effective unless in writing and signed on behalf of each of the parties hereto by a

director or other authorised person

18.7 Assignment

This Agreement is personal to the Department and the Company and may not be assigned at law or in equity without the prior written consent of the other party

18.8 Waiver and release

Any waiver or release by either party shall not affect or prejudice the rights and remedies of that party in respect of any future or other breach of the covenants conditions or obligations on the part of the other party contained in this Agreement

IMPROVEMENT AND MODIFICATION TO DEPARTMENT'S LINKBRIDGE

19.1 IT IS HEREBY MUTUALLY AGREED AND DECLARED by the Department and the Company that subject to the following provisions of this clause 19 nothing herein contained shall require any modification improvement or other work to be carried out to the Department's Linkbridge

19.2 For the purposes of this clause 19 the following words and expressions have the following meanings:-

19.2.1 "Approval" means the written approval of the Department whether conditional or unconditional and "Approve" and

- "Approved" shall be interpreted accordingly
- 19.2.2 "Completed" means completed to the reasonable satisfaction of the Department or the Department's surveyors and "Completed" and "Completion" shall be interpreted accordingly
- 19.2.3 "Consents" means:-
- 19.2.3.1 planning permission under the Town and Country Planning Acts 1934 to 1991 and
- 19.2.3.2 the consent of the insurers or underwriters with whom the Department's Linkbridge is for the time being insured and
- 19.2.3.3 permissions licences certificates consents and approvals required under any statute or statutory provision and "Consent" shall be interpreted accordingly
- 19.2.4 "insurers" means the insurers with whom the Department's Linkbridge is for the time being insured
- 19.2.5 "Reinstatement Works" means the restoration of the Department's Linkbridge to the design

specification state and condition prior to the commencement of the appropriate Works or to the original design specification state and condition as at the commencement of the Licensed Period whichever the Department shall require

19.2.6 "Works" means any improvement modification or other thing desired by the Company to be carried out to the Department's Linkbridge to enable Vessels operated or proposed to be operated from time to time by the Company to berth or continue to berth at the Department's Linkbridge for the Specified Purposes and any additional modification improvements or other thing ancillary or incidental thereto or required by the Department to be undertaken in consequence thereof

19.3 If the Company at any time during the Licensed Period desires any Works to be carried out to the Department's Linkbridge then the Company shall serve written request for the carrying out of the proposed Works upon the Department Such request shall set out in reasonable

detail the proposed Works and the reasons therefor The Company shall upon written notice being given to it by the Department furnish the Department with any information documents plans specifications or other matter which the Department reasonably requires to enable the Department to fully consider the matter As soon as practicable but in any event not later than two months from the receipt of the written request by the Company or receipt by the Department of all information documents plans specifications or other matter requested by the Department (whichever is the later) the Department will inform the Company in writing whether or not the Department Approves the proposed Works provided that

19.3.1 the Department shall be entitled to refuse any such request by the Company:-

19.3.1.1 if the Proposed Works when completed would preclude in the reasonable opinion of the Department the Department's Linkbridge being used by third party vessels as contemplated by clause 8 and the Company is not able (for the same consideration (if

any) or less than the Department would have charged such third party for use of the Department's Linkbridge) to afford such third party vessels such alternate arrangements which in the reasonable opinion of the Department would:-

- 19.3.1.1.1 enable any third party vessel as contemplated by clause 8 to use Douglas Harbour and
- 19.3.1.1.2 ensure that such arrangements continue during the subsistence of this Agreement or
- 19.3.1.2 if the Company is unable to reasonably satisfy the Department that:-
 - 19.3.1.2.1 during the carrying out of the proposed Works the Company is still able to perform its obligations under clauses 3.2 to 3.8 (inclusive) and 3.10 or
 - 19.3.1.2.2 any contemplated disruption caused by the carrying out of the Works to the performance by the Company of its obligations under clauses 3.2 to 3.8 (inclusive) and 3.10 would not adversely affect the overall

security of delivery of Freight to or from the Isle of Man or the passage by sea of passengers and Passengers and Accompanied Vehicles to and from the Isle of Man as contemplated by clauses 3.2 to 3.8 (inclusive) and 3.10 or

19.3.1.2.3 during the carrying out of the Works the Company (for the same consideration (if any) or less than the Department would have charged a third party for use of the Department's Linkbridge) is able to afford appropriate facilities at the appropriate time(s) within Douglas Harbour for use by any third party of which the Department has given notice to the Company in accordance with the provisions of clause 8 prior to receipt by the Department of the Company's request under clause 19.3

19.3.2 The Department shall be entitled to withdraw or withhold its Approval at anytime before commencement of the

proposed Works:-

19.3.2.1 if the Company shall not agree to any condition reasonably imposed by the Department in respect of any Approval or

19.3.2.2 if any Consent is subject to any condition which in the reasonable opinion of the Department:-

19.3.2.2.1 adversely affects or may affect the management or operation or future management or operation of Douglas Harbour or

19.3.2.2.2 prohibits or restricts the carrying out of the Reinstatement Works or

19.3.2.2.3 prohibits or inhibits the use of any then existing facility or the construction of any future facility in Douglas Harbour or

19.3.2.3 if the Company is in breach of any of its obligations under clauses 3.2 to 3.8 (inclusive) 3.10 19.4 or 19.5 or

19.3.2.4 if any Consent is withheld or

not granted or

19.3.2.5 if any drawings plans or specifications provided by the Company under clause 19.5.1.2 shall materially differ from any drawings plans or specifications previously supplied by the Company to the Department or shall materially affect the Works or the consequences thereof or

19.3.2.6 if the Department reasonably objects to any contractor (whether main or sub-contractor) Consultant Architect Surveyor Engineer or other person notified by the Company to the Department in accordance with the provisions of clause 19.5.1.4

19.4 If the Department shall Approve the carrying out of the proposed Works and shall not require the Company to carry out the same then:-

19.4.1 prior to the commencement of the proposed Works:-

19.4.1.1 the Department at the sole cost and expense of the Company shall seek either by itself or any agent

consultant or other person to obtain all necessary Consents relevant to the Works

19.4.1.2 the Department at the sole cost and expense of the Company shall effect such insurance as the Department deems reasonably appropriate

19.4.1.3 the Department shall agree with the Company (such agreement not to be unreasonably withheld or delayed) the estimated costs of carrying out the Works (the Department being entitled to select any contractor or contractors to carry out the Works)

19.4.1.4 the Department shall agree with the Company (such agreement not to be unreasonably withheld or delayed) the proposed commencement date of the commencement of the Works and the estimated completion date

19.4.1.5 the Company shall provide the Department with adequate security in such form as the Department shall deem appropriate as assurance to the Department that within seven days (or earlier if the circumstance requires) of receipt of written demand by the Department the Company

- will pay to the Department any monies so demanded relevant to the Works or any particular part of the Works or any insurance effected by the Department under clause 19.4.1.2
- 19.4.1.6 the Company shall if required by the Department provide the Department with adequate security in such form as the Department shall deem appropriate as assurance to the Department that upon termination of this Agreement by effluxion of time or otherwise the cost of the Reinstatement Works or any part thereof will be paid within seven days of demand being made by the Department
- 19.4.2 Subject to each condition under clause 19.4.1 being complied with the Department shall execute or cause to be executed the Works with all due diligence and in accordance with all terms conditions and requirements of all Consents
- 19.5 If the Department shall Approve the carrying out of the Works but shall require the Company to carry out the same then:-

19.5.1 Prior to the commencement of the Works:-

19.5.1.1 the Company shall obtain at its own expense all Consents relating to the proposed Works which it is for the time being necessary or desirable to obtain and shall obtain the Approval of the Department to any condition relevant to any such Consent

19.5.1.2 the Company shall provide the Department with all drawings plans and specifications relevant to the Works prepared by an architect or member of some other profession (who shall supervise the Works throughout to Completion)

19.5.1.3 the Company shall enter into such covenants and undertakings as the Department may require as to the execution of the Works and shall provide to the Department adequate security in such form as the Department shall deem appropriate as assurance to the Department

that (a) the Works shall be fully Completed and (b) upon termination of this Agreement by effluxion of time or otherwise howsoever that the cost of the Reinstatement Works or any part thereof will be paid within seven days of demand being made by the Department

19.5.1.4 The Company shall notify the Department in writing of all contractors (whether main or sub-contractors) Consultants Architects Surveyors Engineers and all other persons who shall be responsible for the carrying out or supervision of the Works and shall simultaneously furnish the Department with adequate information relevant to the Work to be carried out by any such Contractor Consultant Architect Surveyor Engineer or other person and shall furnish in writing to the Department any other information required by the

Department relevant to any such Contractor Consultant Architect Surveyor Engineer and/or other person

- 19.5.1.5 The Company shall agree with the Department (such agreement not to be unreasonably withheld or delayed) the proposed commencement date and completion date of the Works
- 19.5.2 if the Company shall comply with the previous provisions of sub-sub-clause 19.5.1 then on the date agreed with the Department the Company shall commence the Works and shall thereafter with all due diligence and expeditiously carry out the Works to Completion
- 19.5.3 during the execution of any Works:-
- 19.5.3.1 the Company shall keep all plant machinery apparatus and materials in connection with the Works stored within such area or areas as the Department and the Company shall from time to time agree (the agreement of the Department not to be unreasonably withheld or delayed)
- 19.5.3.2 the Company shall not cause or permit

19.5.3.2.1 any damage disturbance
annoyance nuisance or
inconvenience whether by noise
dust vibration the emission of
smoke fumes or effluvia or
otherwise to the Department or
to Douglas Harbour or to the
owners or occupiers of any
adjoining or neighbouring
property or to the operation of
or to any user of Douglas
Harbour or

19.5.3.2.2 any damage to or weaken or
render unsafe the structure of
the Department's Linkbridge or
any part thereof or

19.5.3.2.3 any interruption or disturbance
to the management or operation
of Douglas Harbour

19.5.3.3 The Company shall not change (without
the prior written approval of the
Department (such approval not to be
unreasonably withheld)) any
Contractor (whether main or
sub-contractor) Consultant Architect
Surveyor Engineer or other person
notified by the Company to the
Department in accordance with the

provisions of clause 19.5.1.4

19.5.3.4 The Company shall ensure that the Works and every part thereof are carried out in accordance with all drawings plans and specifications previously supplied by the Company to the Department in accordance with the preceding provisions of this clause 19.5 and shall further ensure that the Works and every part thereof are carried out in compliance with all Approvals and Consents

19.5.4 the Company shall permit the Department by its personnel and any other person duly authorised by the Department access at all reasonable times to the Department's Linkbridge during the course of the carrying out of the Works for any purpose in connection with ensuring compliance by the Company of the provisions of this clause 19.5 or any of the Works

19.5.5 the Company shall produce to the Department on demand copies of all letters notices applications Consents or other documents sent served received or made by or granted to the Company in connection with any Works

and shall supply to the Department on demand such information or evidence as the Department may reasonably require in order to satisfy itself that the provisions of this clause 19.5 have been complied with throughout the carrying out of the Works the Company shall insure and keep insured with the Insurers:-

19.5.6.1 all parts of the Works from time to time executed and all plant machinery equipment apparatus materials goods and other things at the Department's Linkbridge intended for use in connection with or as part of the Works from the date of commencement of the Works to the date of Completion in the joint names of the Department and the Company against loss or damage by such of the Insured risks as the Department shall deem reasonably appropriate and such other risks as the Department may from time to time reasonably require in the full

reinstatement or replacement value it being agreed that all monies received under any policy relating to such insurance shall be applied in restoring reinstating and replacing such part of the executed Works plant machinery equipment apparatus materials goods and other things the Company making up any deficiency out of its own money

19.5.6.2 without prejudice to any other provision of this sub-clause from the date of commencement of the Works until completion thereof in the joint names of the Department and the Company in a sufficient sum (to be agreed between the Department and the Company) insurance against all liability actions proceedings costs claims demands and expenses whatsoever in respect of personal injury to or the death of any person and any injury or damage to any property real or personal

howsoever arising out of or in
the course of or as the result
of the execution of the Works
or any part thereof

and to supply to the Department on
demand a copy or copies of the
policy or policies relating to such
insurance and the receipts or other
evidence of payment of the current
premium

19.5.7 the Company shall indemnify the
Department against all liability
actions proceedings claims demands
costs expenses and liabilities
whatsoever (including without
limitation those in respect of
personal injury to or the death of
any person or any injury or damage to
any property real or personal)
howsoever arising whether directly or
indirectly as a result of the grant
of any Approval by the Department or
any failure by the Company to comply
with the provisions contained in this
clause 19.5 or the commencement or
execution of any of the Works or the
state and condition of the
Department's Linkbridge during the

carrying out of the Works or the existence operation or use of any plant apparatus machinery equipment substance goods or other thing on the Department's Linkbridge in connection with the Works

19.6 The Department and the Company agree as follows:-

19.6.1 Any Approval consent instruction or inspection granted given or carried out by or on behalf of the Department under this clause 19 shall be granted given or carried out without any liability on the part of the Department or any person authorised by the Department its personnel Surveyors agents or workmen and the Department nor any person as aforesaid shall have no responsibility for any of the Works carried out under clause 19.5 or the design execution or existence thereof nor do they imply warrant or constitute any representation that it is lawful to execute such Works or limit or discharge any of the obligations of the Company under this clause 19

- 19.6.2 without prejudice to any other remedy of the Department if the Company is in breach of any of its obligations under this clause 19 the Department may serve notice on the Company specifying the breach and if such breach is not remedied within a reasonable time specified by the Department it may either serve a notice on the Company requiring the Company to reinstate the Department's Linkbridge which the Company shall duly and expeditiously undertake or itself remedy the breach and the cost of such remedial work shall be paid by the Company to the Department on demand
- 19.6.3 notwithstanding any other provision of this clause 19 all parts of the Works from time to time executed by the Company shall be at the sole risk of the Company until they are Completed
- 19.6.4 if the Works are not commenced within fourteen days of the date agreed for commencement of the same then the Company shall be deemed to have withdrawn its request for the

carrying out of the Works

19.7 Notwithstanding any other provision of this clause 19 the Company shall pay to the Department on demand and indemnify the Department against all proper costs charges fees disbursements and expenses (including those of professional advisers and agents and including in each case any Value Added Tax) incurred by the Department in connection with any Approval Consents or the Works including (without limitation) those arising from the consideration of any application for and any preparation negotiation and Completion of any Approval and/or Consents and any drawings plans specifications submitted to the Department the inspection of any Works and from the obtaining of the consent or approval of or information from any other person

20. **NOTICES**

20.1 Any notice to be given by or to either party to this Agreement shall be in writing and shall be deemed duly served if delivered personally or sent by facsimile transmission or pre-paid recorded delivery post to the addressee

at the address herein stated or the
facsimile number of that party set out
opposite its name below:

Department - facsimile number 01624 -
686677

Company - facsimile number 01624 - 620233
or at such other address or facsimile number as the
party to be served may have notified in accordance
with the provisions of this clause for the purposes
of this Agreement provided that in the case of the
Company all such notices shall be marked for the
attention of the Company Secretary and in the case
of the Department all such notices shall be marked
for the attention of the Chief Executive

20.2 Any notice sent by facsimile shall be deemed
served when received (except that if such
transmission takes place outside normal
business hours (namely 9.00 am to 5.00 pm on
working days) the notice shall be deemed to
have been served when normal business hours
next commence) and any notice served by
pre-paid recorded delivery post shall be deemed
served 48 hours after posting. In proving the
service of any notice it will be sufficient to
prove in the case of pre-paid recorded delivery
post that the notice was properly stamped
addressed and posted or delivered or left at
the current address if delivered personally or

in the case of a facsimile such facsimile transmission was duly despatched to the facsimile number of the addressee given above or subsequently notified for the purposes of this Agreement

RELEVANT LAW

21. This Agreement shall be governed by and construed in accordance with the laws of the Isle of Man and the parties submit to the non exclusive jurisdiction of the High Court of Justice of the Isle of Man and agree that in the event of any action being commenced in respect of this Agreement the process by which it is begun may be served on them in accordance with clause 20

STATUTORY AND INTERNATIONAL OBLIGATIONS

22. Notwithstanding any other provision of this Agreement but subject to the rights of the Company under clause 18.5 the covenants conditions and obligations on the part of the Department are subject to the Department's obligations from time to time under any International Treaty Agreement or Convention Directive Regulation or other binding matter for the time being having force and to which the Department or the Isle of Man Government or the Isle of Man may be a party or subject

FIRST SCHEDULE

1. Calculation of the Fluctuating Charges

The amount of the Fluctuating Charges shall be determined by reference to the appropriate Accounting Year

2. Notification of the Interim Payments

In advance of (or as early as may be in) each Accounting Year the Department shall determine and notify in writing to the Company the amount of the Interim Payments for such Accounting Year PROVIDED that if in the opinion of the Department the Interim Payments should continue the same as in the previous Accounting Year no further notification need be given to the Company

3. Determination of the Fluctuating Charges

A certificate signed by the Department's External Auditors as to the amount of the Fluctuating Charges for the period to which the certificate relates shall be final and binding and shall be accepted by the Company

4. Fluctuating Charges Account

As soon as practicable after the end of each Accounting Year the Department shall furnish to the Company an account of Fluctuating Charges payable for that Accounting Year and if for any Accounting Year the amount of the Fluctuating Charges is found to be less than the sum of the Interim Payments made by the Company in respect of that Accounting Year

the excess shall be refunded by the Department to the Company or (at the option of the Department) credited against the next Interim Payments due and if the amount of the Fluctuating Charges is found to be greater than the sum of the Interim Payments made by the Company in respect of that Accounting Year the Company shall pay the balance due in respect of that Accounting Year on the expiration of seven days following notice in writing from the Department to the Company of the amount of the Fluctuating Charges

5. Notwithstanding any other provision of this Schedule the amount of Fluctuating Charges payable by the Company in respect of the First Accounting Year and each Accounting Year thereafter up to 31st March 1997 shall not exceed £120,000 for each such Accounting Year and proportionately for any Accounting Year which is less than a twelve month period

SECOND SCHEDULE

Items included for the purpose of calculating Fluctuating Charges

The costs expenses and outgoings of the Department:-

(1) in maintaining and repairing the Department's Linkbridge including without prejudice to the generality of the foregoing maintenance and repairs to the structure thereof to any part of any

pier quay or anything else to or upon which any part of the Department's Linkbridge is attached or rests painting and cleaning the Department's Linkbridge the cost of all replacement parts and spares (including replacement anchors and anything not directly forming part of the Department's Linkbridge but which is necessary for the siting stability operation or otherwise of the Department's Linkbridge) but the cost of such replacement parts and spares shall not be included in any Fluctuating Charges until such part or spares shall be actually used

(2) the cost of gross remuneration (including any employers national insurance contributions and/or similar employer contributions expenses or outgoings) payment and other expenses as appropriate paid or payable to any officer servant personnel agent contractor or consultant the Department may consider at any time necessary to employ or engage (whether full part-time or otherwise) in the operation maintenance inspection repair removal re-siting of or otherwise relevant to the Department's Linkbridge and administration relevant thereto

(3) all rates charges assessments and other outgoings and impositions whatsoever (if any) assessed charged or imposed upon or in respect of the Department's Linkbridge (other than income tax)

(4) all fees and costs incurred by the Department in respect of the obtaining or continuance of any consent approval certificate or other thing required for the siting or use or continued siting or use of the Department's Linkbridge for the Specified Purposes

(5) the cost (which shall include all labour contractors and consulting costs) of inspecting maintaining renewing and/or replacing all plant machinery equipment apparatus and any respective parts thereof forming part of or used in connection with the Department's Linkbridge

(6) the cost of insuring and keeping insured throughout the Licensed Period the Department's Linkbridge against the Insured risks

(7) without prejudice to the previous clauses in this Schedule all costs and expenses incurred by the Department for the purpose of complying with or in connection with the fulfilment of the Department's obligations under the within Agreement and in particular under clause 7 thereof

THIRD SCHEDULE

Any Rebated Sum payable by the Department or (at the Company's option) to be credited to the Company in accordance with clause 7.9 shall be calculated as follows:-

Rebated Sum = $\frac{\text{Fixed Charge}}{364} + \frac{\text{£150,000}}{364} +$

Amount of last quarterly instalment of the Interim
Payments paid by the Company to the Department
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FOURTH SCHEDULE

Capital Monies

1. In this Schedule the following words and expressions have the following meanings:-

Linkbridge means the Linkbridge (as such word is defined in clause 1.1 of this Agreement) installed by the Department on the north side of King Edward VIII Pier in Douglas Harbour

Ancillary Works means all supports ramps anchors struts berthing dolphins fenders moorings bollards footbridges tanks (storage or otherwise) ballasts cables fixings securing mechanisms structures of every description pipes wires cables and other conduits lighting fixtures plant machinery apparatus equipment and all other things required relevant to or in connection with the

siting positioning stability
operation or use of the
Linkbridge or the provision of
electricity fuel water or other
services thereto and any one or
more of the foregoing

Site

means the whole and each part
of the area (which area is for
the purposes of identification
only edged red on the plan
attached to this Agreement)
situate on the north side of
King Edward VIII Pier in
Douglas Harbour

2. Capital Monies to be certified by the
Department's External Auditors in accordance with
clause 7.1.2 of this Agreement shall include:-

2.1 All monies paid or payable by the Department to
any contractor consultant surveyor engineer or
other third party or expended by the
Department in respect of or in connection
with:-

2.1.1 the design (including preparation *
and issue of design drawings
specifications tender documents and
contracts) of the Linkbridge and the
Ancillary Works

2.1.2 the manufacture construction

transportation assembly siting
affixing installation testing
commissioning making fully
operational and in good working order
the Linkbridge and the Ancillary
Works

- 2.1.3 all inspections and supervision of
the Linkbridge and the Ancillary
Works during manufacture construction
transportation siting assembly
testing commissioning and making
operational
- 2.1.4 calculation and/or certification of
all monies payable by the Department
under any contract relevant to the
Linkbridge or the Ancillary Works
- 2.1.5 inspections and supervisions during
and at the end of any defects
correction period under any contract
relevant to the Linkbridge and the
Ancillary Works
- 2.1.6 all preparation dredging alteration
modification additions connections
(including all preliminary works
relevant to any of the foregoing) to
the sea or harbour bed within or
adjacent to the site any pier or quay
within or adjacent to the site and

all parts of Douglas Harbour
(including any roadways) within or
adjacent to the site to make the same
suitable for the siting installation
affixing or connecting thereto of the
Linkbridge or the Ancillary Works

2.1.7 the dredging and all preparatory work
required to establish a suitable
berth and approach channels required
in connection with the proposed
operation and use of the Linkbridge
and

2.2 All monies expended by the Department
(including an appropriate apportionment of any
salaries of Department personnel) relevant to
off-Island visits to inspect or otherwise in
connection with the Linkbridge during the
course or on completion of manufacture the
purchase or obtaining of any Performance Bonds
insurance or guarantee relevant to or in
connection with the performance of any
obligation of the Department under any contract
relevant to the Linkbridge Ancillary Works
and/or Site and

2.3 Without prejudice to the foregoing provisions
of this clause 2 of this Schedule all monies
paid or payable by the Department under or in
connection with or arising out of:-

- 2.3.1 contract between the Department and Posford Duvivier Limited as evidenced by letter dated 15th December 1992 from the Department
- 2.3.2 contract between the Department and Posford Duvivier Limited as evidenced by letter dated 14th February 1994 from the Department to Posford Duvivier Consulting Engineers
- 2.3.3 contract between the Department and Posford Duvivier Limited as evidenced by letter dated 2nd June 1994 from the Department to Posford Duvivier (Isle of Man)
- 2.3.4 contract between the Department and Costain Building and Civil Engineering Limited as evidenced by Contract Documents dated 24th August 1994
- 2.3.5 contract between the Department and Cameron Hall as evidenced by Form of Agreement dated the 9th day of August 1994

FIFTH SCHEDULE

PART I

Calculation of the Fixed Charge for each year of the three year period commencing on the commencement date of the Initial Period

Fixed Charge =

(i) (£69.50 x Capital Monies) - £150,000

1000

or (ii) £128,000

whichever shall be the greater

PART II

Calculation of the Fixed Charge for each year of the three year period (or if neither the Company nor the Department shall exercise the option to renew in accordance with the provisions of clause 12 the last year of the Initial Period) commencing on the appropriate Review Date

(i) $(A \times B) - £150,000 = C$

Where:-

A = Charge per £1,000 calculated by reference to the Appropriate Treasury Rate in accordance with the following scale

Appropriate Treasury Rate	Charge per £1,000
7%	£ 69.50
7.5%	£ 72.08
8%	£ 74.67
8.5%	£ 77.25
9%	£ 79.83
9.5%	£ 82.42
10%	£ 85.00
10.5%	£ 87.58
11%	£ 90.17
11.5%	£ 92.75
12%	£ 95.33
12.5%	£ 97.92
13%	£100.50
13.5%	£103.08
14%	£105.67
14.5%	£108.25
15%	£110.83

And for each 0.5% above 15% add £2.58

B = Capital Monies
1000

C = appropriate Fixed Charge

[Example Appropriate Treasury Rate = 8%
 Capital Monies = 4,000,000

$$\frac{(\pounds 74.67 \times 4,000,000)}{1000} - \pounds 150,000 = \pounds 148,680$$

or (ii) the yearly sum of ONE HUNDRED AND TWENTY EIGHT THOUSAND POUNDS (£128,000) whichever shall be the greater

SIXTH SCHEDULE

EXAMPLE OF WEIGHTED BASIS CALCULATION INFORMATION REQUIRED

1994	Fare Band	Fare	% of Passengers	No. of Sailings
		£		
	A	28	.3	125
	B	24	.2	100
	C	22	.4	200
	D	20	.1	75
1995	A	29	.35	150
	B	25	.25	125
	C	23	.35	175
	D	21	.05	50

CALCULATION OF INCREASE

FARE BAND	INCREASE £	% INCREASE	% of PASSENGER	PRODUCT
A	1	3.57	.35	1.25
B	1	4.17	.25	1.04
C	1	4.55	.35	1.59
D	1	5.00	.05	0.25
AGGREGATE			=	4.13

Therefore Weighted Basis for the purposes of clause 5.2. or 5.3 = 4.13%

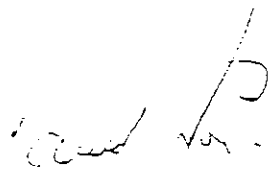
PROVIDED THAT:-

1. In calculating any percentage increase the percentage shall be determined to the nearest two decimal points on the basis that if the calculation is required to be made to the nearest three decimal points if the third decimal point shall be five or less the calculation shall be rounded down to the nearest two decimal points and if the third decimal point shall be six or more shall be rounded up to the nearest two decimal points and
2. If the annual percentage rate of increase in the Manx Retail Price Index shall be calculated to the nearest one decimal point then the aggregate percentage increase calculated in accordance with this Sixth Schedule shall if the second decimal point is five or less be rounded down to the nearest one decimal point and if the second decimal point is six or more be rounded up to the next one decimal point

IN WITNESS WHEREOF the parties hereto have executed this Agreement as a Deed the day month and

year first before written
EXECUTED and DELIVERED by
the Department under the
hand of the Minister for
Transport in the
presence of:-

NR Coal :
CHIEF EXECUTIVE :
DEPARTMENT OF
TRANSPORT



EXECUTED and DELIVERED by
the Company in the
presence of:-

N. S. Martin :
N. S. MARTIN :
27 WENTWORTH CUSE :
CINCINNATI :
ISUE C.C. MAN :

[Signature]
Chairman

[Signature]
Managing
Director